

WSR 17-08-024

PERMANENT RULES

BENTON CLEAN AIR AGENCY

[Filed March 28, 2017, 11:06 a.m., effective April 28, 2017]

Date Adopted: March 23, 2017.

Robin Priddy
Director/Control Officer

Effective Date of Rule: Thirty-one days after filing.

Purpose: The changes in Articles 1, 2, 3, 6, 7, and 9 were primarily administrative in nature, such as including sections of RCW/WAC in Regulation 1 to consolidate and align wording with RCW/WAC or renumbering subsections for consistency throughout Regulation 1. Article 4 was updated to require notification to the Benton Clean Air Agency (BCAA) of projects which destabilize soil in Benton County, improving our ability to contact responsible parties of dust emissions from these projects. Article 8, concerning asbestos, was overhauled to include more thorough asbestos surveying and notification requirements, more detailed requirements concerning hazardous asbestos containing materials, more detailed work requirements for alternative means of compliance, and new regulations concerning disposal of asbestos containing materials. Articles 2 and 10 were amended to remove the fee schedules for registered sources from Regulation 1 and refer to a fee schedule adopted by board resolution.

Citation of Existing Rules Affected by this Order: Amending Sections 1.01, 3.02, 4.01, 4.02, 6.01, 6.02, 7.01, 7.02, 8.01, 8.02, 8.03, 8.04, 8.05, 8.06, 8.07, 9.01, 10.05, 10.06, 10.07, 10.08, and 10.09.

Statutory Authority for Adoption: Chapter 70.94 RCW.

Adopted under notice filed as WSR 16-18-088 on September 6, 2016.

Changes Other than Editing from Proposed to Adopted Version: Adopted as submitted: Adopted changes to Articles 1, 2, 3, 4, 6, 7, 9, and 10 as submitted to the register.

Changes made for clarification: Minor changes to provide clarification were made to Sections 8.01, 8.02, 8.03, 8.04, 8.05, and 8.08 after review of comments received during the public comment period. The comments generally asked for clarification of the intent of changes to Article 8 and/or the necessity of changes to Article 8. BCAA reviewed the comments and made changes for clarification where it was appropriate. BCAA then responded to the author of the comments directly.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

AMENDATORY SECTION**SECTION 1.01 Name of the Agency**

The name of this Air Pollution Control Agency is the Benton Clean Air Agency, referred to as the Agency(~~(-or the Agency)~~).

NEW SECTION**SECTION 2.07 Entering Private, Public Property**

[Statutory Authority: RCW 70.94.200]

For the purpose of investigating conditions specific to the control, recovery or release of air contaminants in the atmosphere, a control officer, the department, or their duly authorized representatives, shall have the power to enter at reasonable times upon any private or public property, excepting non-multiple unit private dwellings housing two families or less. No person shall refuse entry or access to any control officer, the department, or their duly authorized representatives, who request entry for the purpose of inspection, and who present appropriate credentials; nor shall any person obstruct, hamper or interfere with any such inspection.

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

NEW SECTION**SECTION 2.08 Authority to Collect Fees**

[Statutory Authority: RCW 70.94.151]

A. Legal Authority.

Washington Clean Air Act authorizes the agency to assess fees and recover costs for permits, registrations, and professional services.

B. Charges.

Charges include but are not limited to the following:

1. Reimbursement of agency staff time for review of complex projects of lengthy enforcement action;
2. Costs incurred by the authority for the implementation of the Air Operating Permit program as defined in WAC 173-401;
3. Reimbursement of agency staff time for costs to prepare notices of construction;
4. Reimbursement of the costs for annual registrations including periodic inspections;
5. Charges from Ecology for state level support and oversight work, and;
6. Appropriate charges incurred by other agencies and requested to be collected shall be billed as part of a penalty.

C. Refunds

1. The following fees are non-refundable:
 - a. Actual costs incurred by the authority;
 - b. Application fees.

2. Fees collected in excess of actual cost will be refunded with interest.

3. Fees collected in error will be refunded with interest.

D. Fees

1. Adoption of fee schedules.

Fee Schedules shall be adopted by board resolution under the authority of RCW 42.30 at any time after receiving public comment.

2. Fees for the Registration and Notice of Construction Programs are contained in the Fee Schedule. Other fees are listed in Article 10 of Regulation 1.

3. Availability of Fee Schedules and Related Information.

The Fee Schedule and billing rate schedule for reimbursable fees shall be made available upon request.

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION

SECTION 3.02 General Surface Coating

A. Purpose.

This Section establishes controls on surface coating operations in Benton County in order to:

1. Reduce particulate emissions from coating overspray;

2. Reduce public exposure to Toxic Air Pollutants as listed in Chapter 173-460 WAC;

3. Reduce emissions of precursors to the formation of tropospheric ozone and other photochemical oxidants; and

4. Encourage pollution prevention.

B. Applicability.

This Section applies to all surface preparation, surface coating, cleanup, and disposal associated with general surface coating in Benton County, unless specifically exempted.

C. Definitions.

Unless a different meaning is clearly required by context, words and phrases used in this Section have the following meaning:

1. "Airless Spray" means a spraying system that uses hydraulic atomization instead of air atomization. The coating is supplied to the gun under high fluid pressure between 1000 and 3000 psig and the coating is forced through a small orifice.

2. "Air-Assisted Airless Spray" means a spraying system that combines air and airless features. An airless type fluid tip atomizes the paint and shapes the fan pattern at fluid pressures between 300 and 1000 psig. Lower pressure air from 10 to 30 psig combines at the spray cap to adjust the fan shape to eliminate heavy edges (tails).

3. "Automated" means the technique, method, or system of operating or controlling a process by mechanical, electrical, hydraulic, or electronic means independent of human intervention.

4. "Brush Coat Application" means manual application of coatings by use of a paint brush.

5. "Coating" means a material or formulation of materials that is applied to or impregnated into a surface in order to beautify, protect, enhance the function, or otherwise cover the surface.

6. "Container" means the individual receptacle that holds a coating or coating component for storage and distribution.

7. "Dip Coat Application" means application of coatings in which the surface to be coated is immersed in a solution (or dispersion) containing the coating material and withdrawn.

8. "Electrostatic Application" means application of coatings where an electrostatic potential is created between the part to be coated and the paint particles.

9. "Exempt Solvent" means a solvent or solvent component, which is not a volatile organic compound (VOC).

10. "Flow Coat Application" means application of coatings by flowing the coating over the surface to be coated and draining the excess coating to a collection system.

11. "High Volume, Low Pressure (HVLP) or Low Volume, Low Pressure (LVLP) coating system" means equipment used to apply coatings by means of a spray gun which operates between 0.1 and 10.0 pounds per square inch gauge air pressure measured at the nozzle and that exhibits a minimum transfer efficiency of 65%, as applied.

12. "Light Duty Vehicle" means a passenger car, truck, van, or other motor vehicle which has a gross vehicle weight of 8500 pounds or less, or components thereof.

13. "Multi-Coat System" means a coating system where more than one product or coat is sequentially applied to the same surface and generally consists of a pigmented base coat, one or more semi-transparent mid-coats, and a transparent clear coat. The VOC content for a multi-coat system are calculated as follows:

$$VOC_{TM} = \frac{VOC_{BC} + VOC_{X1} + VOC_{X2} + \dots + VOC_{Xn} + 2 \times VOC_{CC}}{n + 3}$$

where:

VOC_{TM} is the average sum of the VOC content, as applied to the surface, in a multi-coat system; and

VOC_{BC} is the VOC content, as applied to the surface, of the base coat; and

VOC_X is the VOC content, as applied to the surface, of each sequentially applied mid-coat; and

VOC_{CC} is the VOC content, as applied to the surface, of the clear coat (Two coats are applied); and

n is the total number of coats applied to the primer coat(s) surface.

14. "Pre-packaged Aerosol Can Application" means application of coatings from cans which are sold by the coating supplier as non-reusable, hand-held pressurized containers. The coating is expelled as a finely divided spray when a valve on the container is depressed.

15. "Primer" means any coating that is applied to a surface to enhance corrosion resistance, protection from the environment, functional fluid resistance, and adhesion of subsequently applied coatings.

16. "Reducer" means any solvent added to a coating which has the effect of reducing the viscosity of the coating or shortening the drying time.

17. "Refinishing" means reapplying coating to a surface to repair, restore, or alter the finish.

18. Roll Coat Application" means manual application of coatings by the use of a paint roller.

19. "Solvent Consumption" means the volume of solvent purchased or otherwise procured, less the volume recycled or disposed. In the absence of records which document the transfer of solvent to an authorized recycler or waste hauler, solvent consumption means the volume of solvent purchased or otherwise procured.

20. "Standard engineering practices" means that accepted, peer reviewed sets of criteria are used in designing equipment (i.e. Uniform Building, Electrical, and Fire Codes, recommendations of the American Conference of Governmental Industrial Hygienists, guidelines of the Department of Labor and Industry, etc.).

21. "Surface Coating" means the application of coating to a surface.

22. "VOC Content" means pounds of VOC per gallon of coating (Lb/Gal) or grams of VOC per liter of coating (G/L), minus water and exempt solvents. The VOC content is calculated as follows:

$$VOC_{CT} = \frac{W_V}{V_M - V_W - V_{ES}}$$

where:

VOC_{CT} is the VOC content of the coating, as applied to the surface; and

W_V is the weight of VOC per unit volume of coating, as applied to the surface; and

V_M is the unit volume of coating, as applied to the surface; and

V_W is the volume of water per unit volume of coating, as applied to the surface; and

V_{ES} is the volume of exempt solvents per unit volume of coating, as applied to the surface.

23. "Wash Solvent" means any solution, solvent, suspension, compound, or other material, excluding water that is used to clean spray equipment, spray equipment lines, containers, and any other equipment associated with the application of coatings.

24. "Wipe-Down Agent" means any solution, solvent, suspension, compound, or other material that is applied to a surface exclusively for cleaning the surface or preparing the surface for coating.

D. Prohibitions on emissions.

1. No person may cause or allow the application of any coating which contains greater than 0.1% by weight of one or more compounds of lead or hexavalent chromium.

2. Light duty vehicle refinishing - prohibitions on VOC content. Except as provided in Section 3.02.F of this Regulation, no person shall cause or allow the application of any coating or other agent to any light duty vehicle or light duty vehicle component, with a VOC content in excess of the limits listed in 40 CFR 59, Subpart B, Table 1 - EPA National Volatile Organic Compound Emission Standards for Automobile Refinish Coatings.

E. Requirements.

All persons subject to the requirements of Section 3.02 of this Regulation must comply with all of the following, unless exempted under Section 3.02.F of this Regulation.

1. Enclosure and Controls.

Spray application must be conducted in a booth or area which is vented to an operating particulate control system. The particulate control system, including filtration, ducting, and fan must be installed and sized according to standard engineering practices. Acceptable filtration methods may include:

a. Filter banks supplied with filter media designed for spray booth applications.

b. Water baths where the inlet air flow to the water bath is submerged.

c. Water wall systems that form a continuous water curtain through which the particulate flow stream must pass.

d. Other filtration methods that have received the prior written approval of the Control Officer, which meet the following conditions:((-))

i. The control system must be equipped with a fan which is capable of capturing all visible overspray;(((-))

ii. Emissions from the booth/area must be vented to the atmosphere through a vertical stack;(((-))

iii. The top of the exhaust stack/vent must be at least 6 feet above the penetration point of the roof, or if the exhaust stack/vent exits horizontally out the side of the building, then the exhaust stack/vent must vent vertically at least 6 feet above the eave of the roof;(((-))

iv. A higher stack/vent may be required if the Agency determines that it is necessary for compliance with WAC 173-400-040;(((-))

v. There must be no flow obstruction (elbows, tees, or stack caps) inside of, or at the top of, the stack that will impede upward vertical flow of the exhausted air; and(((-))

vi. It is the owner/operator's responsibility to comply with other applicable federal, state, and local regulations for the stack/vent.

2. Visible Emissions.

Visible emissions from the stack may not exceed 10% opacity averaged over any six minute period, as determined by EPA Method 9.

3. Application methods.

Except as provided in Section 3.02.F. of this Regulation, no person may cause or allow the application of any coating or other agent containing VOC unless the coating or agent is applied by one of the following methods:

a. High Volume, Low Pressure coating system;

b. Low Volume, Low Pressure coating system;

c. Wet or Dry electrostatic application;

d. Flow coat application;

e. Dip coat application;

f. Brush coat application;

g. Pre-packaged aerosol can application;

h. Roll coat application;

i. A spraying technique that when tested, using the methodology presented in ASTM Standard D 5327-92, or when test documentation, provided to and approved by the Agency, exhibits that the spraying technique has a transfer efficiency of at least 65%;

j. Alternate application methods that have received the written approval of the Control Officer. Such alternate methods may be used, provided that the owner or operator makes a written request to use an alternate method and the Control

Officer grants approval. These methods include but are not limited to the following application methods and circumstances:

i. ((4)) Airless and Air-Assisted Airless Spray systems may be used under any of the following circumstances:

(a) when the volatile organic compound (VOC) emissions are determined by the Control Officer to be no more than VOC emissions that would be generated by a spray application with a transfer efficiency of 65%;

(b) when the spraying operation is automated;

(c) when spray painting structural steel members where the coating, as formulated by the coating manufacturer, does not require addition of reducers to spray, and is delivered under high pressure (> 1,000 psig for airless, or > 300 psig for air-assisted airless) to the application system; or

(d) where the Control Officer has determined that the coating cannot be feasibly applied with a method that has a minimum transfer efficiency of 65%.

4. Equipment Cleanup.

Equipment cleanup and any other use of wash solvent must be totally enclosed during washing, rinsing, and draining; or wash solvent, after making contact with the equipment being cleaned, must be immediately drained to a closed sump which is an integral part of the cleaning system.

5. General Clean-up.

a. All unused or partially used containers of coatings, wipe-down agents, wash solvents, reducers, and waste materials containing VOC must be closed, except when in use, when being filled or emptied.

b. Spills must be cleaned up upon discovery and the clean-up materials and collected waste must be stored in closed metal containers.

c. All disposable materials which contain VOCs associated with wipe-down or application of coatings and other agents must be stored in closed metal containers for disposal.

6. Recordkeeping.

All persons subject to Section 3.02 of this Regulation must maintain the following records for the previous 24-month period at the place of business where surface coating is performed:

a. The most current material safety data sheets (MSDS) or other data sheets which clearly indicate the VOC content of the product and of any multi-coat system.

b. Records of purchases and usage, including unused materials returned to the supplier.

i. ((4)) Light duty vehicle refinishing. Annual purchases and usage of total primers, total top coats, total clear coats, and total gun cleaner. Usage must be reported "as applied", i.e. after reducing and catalyzing, if applicable.

ii. ((2)) Other surface coating facilities. Annual purchases and usage of individual coatings, coating additives, wipe-down agents, wash solvents, reducers, there materials containing volatile organic compounds or volatile toxic air pollutants.

c. Waste materials disposal records, including volumes of waste solvents and coatings transferred in sealed containers to authorized waste haulers.

F. Exceptions.

Exceptions to Section 3.02 of this Regulation must be made as follows:

1. Noncommercial exemption.

Nothing in Section 3.02 of this Regulation may apply to surface coating operations conducted solely for personal, noncommercial purposes if, on a facility-wide basis, less than 5 gallons of surface coatings are applied per year.

2. Coating process exemptions.

Nothing in Section 3.02 of this Regulation applies to the following coating processes:

a. The application of architectural coatings to stationary structures and their appurtenances, to mobile homes, to pavements, or to curbs;

b. Fiberglass resin application operations;

c. Gel coating operations;

d. The application of asphaltic or plastic liners. This includes undercoating, sound deadening coating, and spray on bed lining for trucks;

e. Spray plasma plating operations; or

f. Application of coatings to farming equipment.

7. Low usage exemption.

Nothing in Sections 3.02.E.3 & 4 applies to surface coating operations which, on a facility-wide basis, apply less than 10 gallons per year of surface coatings.

8. Exemption for large objects.

Nothing in Subsection 3.02.E.1. of this Regulation applies to the infrequent outdoor surface coating of large objects where the Control Officer determines that it is impractical to totally enclose the object inside a booth or vented area. The request for this exemption must be made in writing to the Control Officer and the approval must be in writing. Infrequent means outdoor spray surface coating that amounts to 10% or less of the total annual gallons of paint applied at the facility in the previous 12 months. Annual records must be kept of the number of gallons of paint that are sprayed outdoors. In such case, a temporary enclosure (tarps) must be maintained around the object during the surface coating operation, sufficient at all times to prevent overspray from remaining airborne beyond the property line of the facility.

9. Wash solvent exemption.

Nothing in Subsection 3.02.E.4. of this Regulation applies to:

a. the use of wash solvents with composite vapor pressure of organic compounds less than 45 mm Hg at 20°C as determined by ASTM Method D-2306-81; or

b. wash solvent operations if total wash solvent consumption does not exceed 10 gallons per year.

10. Stack exemption.

The stack/vent requirements in Subsection 3.02.E.1. of this Regulation does not apply to surface coating operations where the owner or operator can demonstrate to the satisfaction of the Control Officer that emissions of toxic air pollutants will not exceed the Acceptable Source Impact Levels as defined in WAC 173-460-150 & 160 and emissions will not create a nuisance.

11. Non-spray and aerosol can application exemption.

Nothing in Subsection 3.02.E.1 of this Regulation applies to the application of any coating or other agent from pre-packaged aerosol cans, flow coat, dip coat, brush coat, or roll coat applications.

12. Low VOC content exemption.

Nothing in Subsection 3.02.E.3 of this Regulation applies to the application of coatings where the VOC content does not exceed 2.1 Lb/Gal or 250 G/L.

13. Lead or Hexavalent Chrome exemption.

The prohibition in Subsection 3.02.D.1 of this Regulation does not apply to a surface coating operation where the control officer determines that no practical alternative coating is available.

14. Enclosure and/or particulate control exemption.

The enclosure and/or particulate control requirements of Subsection 3.02.E.1 of this Regulation does not apply to a surface coating operation where the control officer determines that such requirements would be ineffective, or unreasonable in capturing or controlling particulate or volatile organic compounds emissions from the facility.

15. Inside exhaust exemption.

If the Department of Labor & Industries or another agency of jurisdiction determines that the emissions from a surface coating operation to an inside work area are below the threshold where an exhaust system is required and the Fire Department or District of jurisdiction has no objection, then the Control Officer may grant an exemption to Subsection 3.02.E.1 of this Regulation.

G. Compliance with other laws and regulations.

Compliance with Section 3.02 of this Regulation or qualifying for an exemption in Section 3.02.F. of this Regulation does not necessarily mean that the surface coating operation complies with fire protection, waste disposal, or other federal, state, or local applicable laws or regulations.

Reviser's note: The typographical errors in the above material occurred in the copy filed by the Benton Clean Air Agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION**SECTION 4.01 Definitions**

A. "Fugitive dust" means a particulate emission made airborne by forces of wind, human activity, or both. Unpaved roads, construction sites, and tilled land are examples of areas that originate fugitive dust. Fugitive Dust is a type of fugitive emissions.

B. "Fugitive emissions" means emissions which could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.

C. "Agricultural activity" means the growing, raising, or production of horticultural or viticultural crops, berries, poultry, livestock, shellfish, grain, mint, hay, and dairy products.

D. "Agricultural land" means at least five acres of land devoted primarily to the commercial production of livestock, agricultural commodities, or cultured aquatic products.

E. (~~C~~) "Destabilization project" means construction, repair, or demolition of any building or road, or landscaping work on a property, which destabilizes the soil and thus has potential for fugitive dust emissions.

F. (~~D~~) "Emergency" means:

1. Active operations conducted during emergency, life threatening situations, or in conjunction with an officially declared disaster or state of emergency; or

2. Active operations conducted by public service utilities to provide electrical, natural gas, telephone, water, or sewer service during emergency outages.

G. (~~E~~) "Facility" means any institutional, commercial, public, industrial, or residential structure, installation, or building (including any structure, installation, or building containing condominiums or individual dwelling units operated as a residential cooperative).

H. "Good agricultural practices" means economically feasible practices which are customary among or appropriate to farms and ranches of a similar nature in the local area.

Reviser's note: The typographical error in the above material occurred in the copy filed by the Benton Clean Air Agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

AMENDATORY SECTION**SECTION 4.02 Particulate Matter Emissions**

A. Fallout.

No person may cause or allow the emission of particulate matter from any source to be deposited beyond the property under direct control of the owner or operator of the source in sufficient quantity to interfere unreasonably with the use and enjoyment of the property upon which the material is deposited. [WAC 173-400-040(3)]

B. Fugitive emissions.

The owner or operator of any emissions unit or operation engaging in materials handling, construction, demolition or other operation which is a source of fugitive emission: [WAC 173-400-040(4)]

1. Must take reasonable precautions to prevent the release of air contaminants from the operation located in an attainment or unclassifiable area and not impacting any non-attainment area. [WAC 173-400-040 (4)(a)]

2. Are required to use reasonable and available control methods If the emissions unit has been identified as a significant contributor to the nonattainment status of a designated nonattainment area. The methods must include any necessary changes in technology, process, or other control strategies to control emissions of the air contaminants for which nonattainment has been designated. [WAC 173-400-040 (4)(b)]

C. Fugitive dust [WAC 173-400-040(9)]

1. The owner or operator of a source, including developed or undeveloped property, or activity that generates fugitive dust must take reasonable precautions to prevent that fugitive dust from becoming airborne and must maintain and operate the source to minimize emissions. [WAC 173-400-040 (9)(a)]

2. These reasonable precautions may include, but are not limited to watering, chemical stabilizers, physical barriers, compaction, gravel, vegetative stabilization, mulching and keeping open areas to a minimum.

3. The owner or operator of any existing source or activity that generates fugitive dust that has been identified as a significant contributor to a PM-10 or PM-2.5 nonattainment area is required to use reasonably available control technol-

ogy to control emissions. Significance will be determined by the criteria found in WAC 173-400-113(4). [WAC 173-400-040 (9)(b)]

D. Project Notification. ((RESERVED))

1. Applicability.

The owner or operator of any destabilization project must notify the Agency of the project prior to commencement of any work that destabilizes the soil via the Agency website, www.bentoncleanair.org.

2. Exemptions.

a. Any project at an existing facility.

b. Any emergency project.

c. Any agricultural operation.

3. Requirements.

The notification must include all of the following:

a. At least two contacts, including name and phone number, for those responsible for mitigating fugitive dust 24 hours a day.

b. The Benton County Parcel ID of each parcel affected by the destabilization project.

c. The owner and operator(s) of the site.

d. Statement, electronically signed by the owner or operator of the site, accepting responsibility for controlling fugitive dust emissions.

E. Dust Control Plans.

1. Applicability.

The owner or operator of any destabilization project must maintain a written dust control plan for the project and make the dust control plan readily available.

2. Exemptions.

a. Any project at an existing facility.

b. Any emergency project.

c. Any agricultural operation.

4. Dust Control Plan Requirements.

a. Dust control plans must identify management practices and operational procedures which will effectively control fugitive dust emissions.

b. Dust control plans must contain the following information:

i. A detailed map or drawing of the site;

ii. A description of the water source to be made available to the site, if any;

iii. A description of preventive dust control measures to be implemented, specific to each area or process; and

iv. A description of contingency measures to be implemented in the event any of the preventive dust control measures become ineffective.

c. An owner or operator must implement effective dust control measures outlined in dust control plans.

d. The owner or operator must provide the Agency with a copy of the plan within two business days of it being requested.

5. Master Dust Control Plan.

a. As an alternative to a site dust control plan, an owner or operator may develop a master dust control plan that applies to more than one site or project. The master plan must:

i. Address all the requirements in Section 4.02.E.3 of this Regulation; and

ii. Provide for effective control of fugitive dust emissions to all sites and projects.

iii. Prior to the commencement of work at any site or project covered by the master plan, the owner or operator must notify the Agency.

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

NEW SECTION

SECTION 4.03 Agricultural Particulate Matter Emissions

A. Exemption.

Fugitive dust caused by agricultural activity consistent with good agricultural practices on agricultural land are exempt from the requirements of Section 4.02 unless they have a substantial adverse effect on public health.

B. Establishing Good Agricultural Practices.

1. In determining whether agricultural activity is consistent with good agricultural practices, the Agency shall consult with a recognized third-party expert in the activity prior to issuing any notice of violation.

2. Additionally, at the Agency's written request, the operator of the agricultural activity must provide the following within 5 business days to assist in determining whether agricultural activity is consistent with good agricultural practices:

a. A description of the agricultural activity.

b. A timeline of the agricultural activity of a length appropriate to that activity.

c. A description of the good agricultural practices employed with respect to wind erosion.

AMENDATORY SECTION

SECTION 6.01 Definitions

Definitions of all terms in this article, unless otherwise defined below, are as defined in WAC 173-430-030.

A. "Agricultural burn day" means a day, as determined by the Agency, during which permitted agricultural burning may take place in areas where agricultural burning is allowed. The length of the burn day is defined as the period from 9:00 AM until one hour before sunset.

B. "Incidental agricultural burning" means agricultural burning that is incidental to commercial agricultural activities and meets one ((a)) of the following conditions:

~~((1. The burning is incidental to commercial agricultural activities:~~

~~2. The operator must notify the local fire department within the area and the Agency;~~

~~3. The burning does not occur during an air pollution episode or any stage of impaired air quality;~~

~~4. Burning must be limited to these specific items:))~~

1. ((a)) Orchard prunings: An orchard pruning is a routine and periodic operation to remove overly vigorous or non-fruiting tree limbs or branches to improve fruit quality, assist with tree canopy training and improve the management of plant and disease, and pest infestations.

2. ~~((b-))~~ Organic debris along fencelines: A fenceline or fencerow is the area bordering a commercial agricultural field that is or would be unworkable by equipment used to cultivate the adjacent field.

3. ~~((c-))~~ Organic debris along or in irrigation or drainage ditches: An irrigation or drainage ditch is a waterway which predictably carries water (not necessarily continuously) and is unworkable by equipment used to cultivate the adjacent field.

4. ~~((d-))~~ Organic debris blown by the wind: The primary example is tumbleweeds.

C. "Person" means an individual, firm, public or private corporation, association, partnership, political subdivision, municipality, or government agency.

AMENDATORY SECTION

SECTION 6.02 Agricultural Burning Permit

A. Agricultural Burning Permit Required.

1. All agricultural burning, except for incidental agricultural burning, requires a written agricultural burning permit from the Agency. Agricultural burning permits are subject to a fee as described in Article 10 of this Regulation and payable at the time of application.

2. Permitted a((A))gricultural burning is allowed only on designated agricultural burn days.

3. It is the responsibility of the person conducting agricultural burning to be informed of additional fire safety rules established by the Benton County Fire Marshall.

4. Permit holders must comply with all conditions listed in the permit.

B. Agricultural Burning Permit Not Required.

1. Incidental agricultural burning, as defined in Section 6.01. ~~B((C))~~ of this Regulation, is allowed without obtaining an agricultural burning permit from the Agency and on days that are not agricultural burn days, except when restricted by the Agency under the following conditions:

a. ~~((2-))~~ The Benton County Fire Marshall declared a ban on burning due to fire safety; or

b. ~~((3-))~~ During any stage of impaired air quality conditions, or during a forecast, alert, warning, or emergency air pollution episode; or

c. ~~((4-))~~ The National Weather Service (NWS) in Pendleton, Oregon forecasts surface wind speeds 20 mph or greater.

2. The operator must notify the local fire department within the area and the Agency.

3. The burning does not occur during an air pollution episode or any stage of impaired air quality.

AMENDATORY SECTION

SECTION 7.01 Definitions

~~((A-))~~ Definitions of all terms in this article, unless otherwise defined, are as defined in WAC 173-433-030.

A. ~~((B-))~~ "Person" means an individual, firm, public or private corporation, association, partnership, political subdivision, municipality, or government agency.

B. ~~((C-))~~ "Solid fuel burning device" (same as solid fuel heating device) means a device that burns wood, coal, or any other nongaseous or non-liquid fuels, and includes any device

burning any solid fuel, except those prohibited by WAC 173-443-120. This also includes devices used for aesthetic or space-heating purposes in a private residence or commercial establishment, which has a heat input less than one (1) million BTU/hr.

C. ~~((D-))~~ "Woodstove" (same as "wood heater") means an enclosed solid fuel burning device capable of and intended for residential space heating and domestic water heating that meets the following criteria contained in "40 CFR. 60 Subpart AAA - Standards of Performance for Residential Wood Heaters" as amended through July 1, 1990:

1. An air-to-fuel ratio in the combustion chamber averaging less than 35.0, as determined by EPA Reference Method 28A;

2. A useable firebox volume of less than twenty cubic feet;

3. A minimum burn rate less than 5 kg/hr as determined by EPA Reference Method 28; and

4. A maximum weight of 800 kg, excluding fixtures and devices that are normally sold separately, such as flue pipe, chimney, and masonry components not integral to the appliance.

5. Any combination of parts, typically consisting of but not limited to: Doors, legs, flue pipe collars, brackets, bolts and other hardware, when manufactured for the purpose of being assembled, with or without additional owner supplied parts, into a woodstove, is considered a woodstove.

D. ~~((E-))~~ "Fireplace" means: Any permanently installed masonry fireplace; or any factory-built metal solid fuel burning device designed to be used with an open combustion chamber and without features to control the air to fuel ratio.

Reviser's note: The typographical error in the above material occurred in the copy filed by the Benton Clean Air Agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION

SECTION 7.02 Solid Fuel Burning Device, Prohibitions

A. Within Benton County, a person may not advertise to sell, offer to sell, sell, bargain, exchange, give away, or install woodstoves, factory-built fireplaces, or other solid fuel burning devices that do not meet the requirements of WAC 173-433-100.

B. The Agency may declare first and second state air quality impairment in accordance with WAC 173-433-150. During those declarations, the use of any solid fuel burning device is restricted as per WAC 173-433-150.

1. Whenever the Agency has declared the first stage impaired air quality conditions, declared under RCW 70.94.-715, residences and commercial establishments with an adequate source of heat other than a solid fuel burning device, may not operate any solid fuel burning device, unless the solid fuel burning device is:

a. A non-affected pellet stove; or

b. A woodstove certified and labeled by the EPA under "40 CFR. 60 Subpart AAA - Standards of Performance for Residential Wood Heaters" as amended through July 1, 1990; or

c. A woodstove meeting the "Oregon Department of Environmental Quality Phase 2" emissions standards con-

tained in Subsections (2) and (3) of Section 340-21-115, and certified in accordance with "Oregon Administrative Rules, Chapter 340, Division 21 - Woodstove Certification" dated November 1984.

2. Whenever the Agency has declared the second stage of impaired air quality for a geographical area a person in a residence or commercial establishment within that geographical area with an adequate source of heat other than a solid fuel burning device must not operate any solid fuel burning device.

C. A person must not cause or allow emission of a smoke plume from any solid fuel burning device to exceed an average of twenty percent opacity for six consecutive minutes in any one-hour period. The provision does not apply during the starting of a new fire for a period not to exceed twenty minutes in any four-hour period.

D. ((C-)) A person may not cause or allow any of the following materials to be burned in a solid fuel burning device, including fireplaces:

- Garbage;
- Treated wood, defined as wood of any species that has been chemically impregnated, painted, or similarly modified to prevent weathering and deterioration;
- Plastic and plastic products;
- Rubber products;
- Animal carcasses;
- Asphaltic products;
- Waste petroleum products;
- Paints and chemicals; or
- Any substance which normally emits dense smoke or obnoxious odors other than paper to start the fire, properly seasoned fuel wood, or coal with sulfur content less than one percent (1.0%) by weight burned in a coal-only heater.

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

NEW SECTION

ARTICLE 8 PURPOSE

The Board of Directors of the Benton Clean Air Agency recognizes that airborne asbestos is a serious health hazard. Asbestos fibers released into the air can be inhaled and cause lung cancer, pleural mesothelioma, peritoneal mesothelioma or asbestosis. The Board of Directors has adopted this regulation to control asbestos emissions primarily resulting from asbestos projects, renovation projects, and demolition projects in order to protect the public health.

AMENDATORY SECTION

SECTION 8.01 Definitions

~~((A. Definitions of all terms in this article, unless otherwise defined below, are as defined in 40 CFR 61 Subpart M and 40 CFR Part 763 Subpart E.~~

~~B. "Demolition" means:~~

~~1. The wrecking or taking out of any load-supporting structural members of a facility or residential unit and any related handling operations; or~~

~~2. The intentional burning of any facility or residential unit.~~

~~C. "Emergency renovation operation" means a renovation operation that was not planned but results from a sudden, unexpected event that, if not immediately attended to, presents a safety or public health hazard, is necessary to protect equipment from damage, or is necessary to avoid imposing an unreasonable financial burden. This term includes operations necessitated by non-routine failures of equipment.~~

~~D. "Facility" means any institutional, commercial, public, industrial, or residential structure, installation, or building (including any structure, installation, or building containing condominiums or individual dwelling units operated as a residential cooperative, but excluding residential buildings having four or fewer dwelling units); any ship; and any active or inactive waste disposal site. For purposes of this definition, any building, structure, or installation that contains a loft used as a dwelling is not considered a residential structure, installation, or building. Any structure, installation or building that was previously subject to this subpart is not excluded, regardless of its current use or function~~

~~E. "Owner or Operator" means any person who owns, leases, operates, controls, or supervises the facility or residential unit being demolished or renovated or any person who owns, leases, operates, controls, or supervises the demolition or renovation operation, or both.~~

~~F. "RACM" is regulated asbestos-containing material as defined in 40 CFR 61 Subpart M~~

~~G. "Renovation" means:~~

~~1. Altering a facility~~

~~2. Altering one or more facility components in any way, including the stripping or removal of RACM from a facility component~~

~~3. Altering a residential unit~~

~~4. Altering one or more residential unit components in any way, including the stripping or removal of RACM from a residential unit component.~~

~~H. A "Residential Unit" is defined as any building with four or fewer dwelling units each containing space for uses such as living, sleeping, preparation of food, and eating that is used, occupied, or intended or designed to be occupied by one family as their domicile. This term includes houses, mobile homes, trailers, houseboats, and houses with a "mother-in-law apartment" or "guest room". This term does not include any facility that contains a residential unit.))~~

~~A. "AHERA Building Inspector" means a person who has successfully completed the training requirements for a building inspector established by United States Environmental Protection Agency (EPA) Asbestos Model Accreditation Plan: Interim Final Rule (40 CFR Part 763, Appendix C to Subpart E) and whose certification is current.~~

~~B. "AHERA Project Designer" means a person who has successfully completed the training requirements for an abatement project designer established by EPA Asbestos Model Accreditation Plan: Interim Final Rule (40 CFR Part~~

763, Appendix C to Subpart E) and whose certification is current.

C. "Asbestos" means the asbestiform varieties of actinolite, amosite (cummingtonite-grunerite), tremolite, chrysotile (serpentinite), crocidolite (riebeckite), or anthophyllite.

D. "Asbestos-Containing Material" means any material containing more than one percent (1%) asbestos as determined using the method specified in the EPA publication, Method for the Determination of Asbestos in Building Materials, EPA/600/R-93/116, July 1993 or a more effective method as approved by EPA.

E. "Asbestos-Containing Waste Material" means any waste that contains or is contaminated with asbestos-containing material. Asbestos-containing waste material includes asbestos-containing material that has been removed from a structure, disturbed, or deteriorated in a way that it is no longer an integral part of the structure or component, asbestos waste from control equipment, materials used to enclose the work area during an asbestos project, asbestos-containing material collected for disposal, asbestos-contaminated waste, debris, containers, bags, protective clothing, or high efficiency particulate air (HEPA) filters. Asbestos-containing waste material does not include samples of asbestos-containing material taken for testing or enforcement purposes.

F. "Asbestos Project" means any activity involving the abatement, renovation, demolition, removal, salvage, clean-up or disposal of asbestos-containing material, or any other action or inaction that disturbs or is likely to disturb any asbestos-containing material. It includes the removal and disposal of asbestos-containing material or asbestos-containing waste material. It does not include the application of duct tape, rewettable glass cloth, canvas, cement, paint, or other non-asbestos materials to seal or fill exposed areas where asbestos fibers may be released.

G. "Asbestos Survey" means a written report resulting from a thorough inspection performed pursuant to Section 8.02 of this Regulation.

H. "Asphalt Shingles" means asphalt roofing in shingle form, composed of glass felt or felts impregnated and coated on both sides with asphalt, and surfaced on the weather side with mineral granules. Some asphalt shingle styles are commonly referred to as three-tab shingles.

I. "Competent Person" means a person who is capable of identifying asbestos hazards and selecting the appropriate asbestos control strategy, has the authority to take prompt corrective measures to eliminate the hazards, and has been trained and is currently certified in accordance with the standards established by the Washington State Department of Labor and Industries, the federal Occupational Safety & Health Administration, or the United States Environmental Protection Agency (whichever agency has jurisdiction).

J. "Component" means any equipment, pipe, structural member, or other item or material.

K. "Contiguous" means touching or adjoining.

L. "Controlled Area" means an area to which only certified asbestos workers, representatives of the Agency, or other persons authorized by the Washington Industrial Safety and Health Act (WISHA), have access.

M. "Demolition" means wrecking, razing, leveling, dismantling, or intentional burning of a structure, making the

structure permanently uninhabitable or unusable in part or whole. It includes any related handling operations. It also includes moving a structure (except a mobile home which remains intact) and wrecking or taking out of any load-supporting structural member.

N. "Disposal Container" means a carton, bag, drum, box, or crate designed for the purpose of safely transporting and disposing of asbestos-containing waste material.

O. "Facility" means any institutional, commercial, public, industrial, or residential structure, installation, or building (including any structure, installation, or building containing condominiums or individual dwelling units operated as a residential cooperative, but excluding residential buildings having four or fewer dwelling units); any ship; and any active or inactive waste disposal site. For purposes of this definition, any building, structure, or installation that contains a loft used as a dwelling is not considered a residential structure, installation, or building. Any structure, installation or building that was previously subject to this subpart is not excluded, regardless of its current use or function.

P. "Homogenous Area" means an area of surfacing material, thermal system insulation material, or a miscellaneous material that is uniform in color or texture. Unless approved otherwise by the Agency, rubble piles, debris piles, ash, soil, and similar materials are not homogeneous areas.

Q. "Friable Asbestos-Containing Material" means asbestos-containing material that, when dry, can be crumbled, pulverized, or reduced to powder by hand pressure or by the forces expected to act upon the material in the course of demolition, renovation, or disposal. Each of these descriptions is separate and distinct, meaning the term includes asbestos-containing material that, when dry, can be:

1. Crumbled by hand pressure or by the forces expected to act upon the material in the course of renovation, demolition, or disposal;

2. Pulverized by hand pressure or by the forces expected to act upon the material in the course of renovation, demolition, or disposal; or

3. Reduced to powder by hand pressure or by the forces expected to act upon the material in the course of renovation, demolition, or disposal.

R. "Leak-Tight Container" means a dust-tight and liquid tight disposal container, at least 6-mil thick, that encloses asbestos-containing waste material and prevents solids or liquids from escaping or spilling out. Such containers may include sealed plastic bags, metal or fiber drums, and sealed polyethylene plastic.

S. "Nonfriable Asbestos-Containing Material" means asbestos-containing material that is not friable (e.g., when dry, cannot be crumbled, pulverized, or reduced to powder by hand pressure or by the forces expected to act on the material in the course of demolition, renovation, or disposal).

T. "Owner-Occupied, Single-Family Residence" means any non-multiple residential unit that is used by one family who owns the property as their domicile (permanent and primary residence) both prior to and after renovation or demolition, and can demonstrate such to the Agency upon request (e.g. utility bills). This term does not include rental properties, multiple unit buildings (e.g. duplexes and condominiums with two or more units) or multiple-family units, nor

does this term include any mixed-use building (e.g. a business being operated out of a residence), structure, or installation that contains a residential unit.

U. "Owner's Agent" means any person who leases, operates, controls, or is responsible for an asbestos project, renovation, demolition, or property subject to Article 8 of this Regulation. It also includes the person(s) submitting a notification pursuant to Section 8.03 of this Regulation and/or performing the asbestos survey.

V. "Person" means any individual, firm, public or private corporation, association, partnership, political subdivision, municipality, or government agency.

W. "Renovation" means altering a structure or component in any way, other than demolition, that disturbs a material that was considered a suspect asbestos containing material prior to performing an asbestos survey.

X. "Residential Unit" means any building with four or fewer dwelling units each containing space for uses such as living, sleeping, preparation of food, and eating that is used, occupied, or intended or designed to be occupied by one family as their domicile. This term includes houses, mobile homes, trailers, houseboats, and houses with a "mother-in-law apartment" or "guest room". This term does not include any facility that contains a residential unit.

Y. "Structure" means something built or constructed, in part or in whole. Examples include, but are not limited to, the following in part or in whole: houses, garages, commercial buildings, mobile homes, bridges, "smoke" stacks, pole-buildings, canopies, lean-tos, and foundations. This term does not include normally mobile equipment (e.g., cars, recreational vehicles, boats, etc.).

Z. "Surfacing Material" means material that is sprayed-on, troweled-on, or otherwise applied to surfaces including, but not limited to, acoustical plaster on ceilings, paints, fire-proofing material on structural members, or other material on surfaces for decorative purposes.

AA. "Suspect Asbestos-Containing Material" means material that has historically contained asbestos including, but not limited to, surfacing material, thermal system insulation, roofing material, fire barriers, gaskets, flooring material, and cement siding. Suspect asbestos-containing material must be presumed to be asbestos-containing material unless demonstrated otherwise (e.g. as determined using the method specified in the EPA publication, Method for the Determination of Asbestos in Building Materials, EPA/600/R-93/116, July 1993).

AB. "Thermal System Insulation" means material applied to pipes, fittings, boilers, tanks, ducts, or other structural components to prevent heat loss or gain.

AC. "Visible Emissions" means any emissions that are visually detectable without the aid of instruments. The term does not include condensed uncombined water vapor.

AD. "Wallboard System" means joint compound and tape specifically applied to cover nail holes, joints and wall corners. It does not mean "add on materials" such as sprayed on materials, paints, textured ceilings or wall coverings. A wallboard system where joint compound and tape have become an integral system (40 CFR Part 61 FRL4821-7) may be analyzed as a composite sample for determining if it is an asbestos-containing material.

AE. "Waste Generator" means any owner or owner's agent that generates, produces, or is in part or whole, responsible for an activity that results in asbestos-containing waste material.

AF. "Workday" means Monday through Friday 8:00 a.m. to 5:00 p.m. excluding legal holidays observed by the Agency.

AMENDATORY SECTION

Section 8.02 ((CFR Adoption by Reference)) Asbestos Survey Requirements

((In addition to the provisions of Regulation 1, The THE AGENCY adopts by reference:

A. 40 CFR Part 61 Subpart M "National Emission Standard for Asbestos"; and

B. 40 CFR Part 763 Subpart E "Asbestos-Containing Materials in Schools".))

A. Except as provided for in Section 8.02.F of this Regulation, it is unlawful for any person to cause or allow any renovation, demolition, or asbestos project unless the property owner or the owner's agent first obtains an asbestos survey, performed by an AHERA building inspector.

B. Asbestos Survey Procedures.

1. An asbestos survey must consist of a written report resulting from a thorough inspection performed by an AHERA building inspector. The AHERA building inspector must use the procedures in EPA regulations 40 CFR 763.86 or an alternate asbestos survey method pursuant to Section 8.02.F of this Regulation. The inspection, and resulting asbestos survey report, must be performed to determine whether materials, components, or structures to be worked on, renovated, removed, disturbed, impacted, or demolished (including materials on the outside of structures) contain asbestos.

2. Except as provided for in Section 8.02.F of this Regulation, only an AHERA building inspector may determine, by performing an asbestos survey, that a material is not a suspect asbestos-containing material and that a suspect asbestos-containing material does not contain asbestos.

3. All loose vermiculite insulation must be sampled and analyzed according to EPA 600 PLM method with milling (EPA/600/R-93/116, July 1993) or CARB 435 (California Air Resources Board Method 435, June 1991) or must be presumed to be a friable asbestos-containing material.

C. Asbestos Survey Report.

These requirements apply to asbestos surveys, regardless of when they were performed. Except where additional information is required pursuant to EPA regulation 40 CFR 763.85, asbestos surveys must contain, at a minimum, all of the following information:

1. General Information.

a. Date that the inspection was performed;

b. AHERA Building Inspector signature, certification number, date certification expires, and name and address of entity providing AHERA Building Inspector certification;

c. Site address(es)/location(s) where the inspection was performed;

d. Description of the structure(s)/area(s) inspected (e.g. use, approximate age and approximate outside dimensions);

e. The purpose of the inspection (e.g. pre-demolition asbestos survey, renovation of 2nd floor, removal of acoustical ceiling texturing due to water damage, etc.), if known;

f. Detailed description of any limitations of the asbestos survey (e.g., inaccessible areas not inspected, survey limited to renovation area, etc.);

g. Identify and describe locations of all homogeneous areas of suspect asbestos-containing materials, except where limitations of the asbestos survey identified in Section 8.02.C.1.f prevented such identification and include whether each homogeneous material is surfacing material, thermal system insulation, or miscellaneous material;

h. Identify materials presumed to be asbestos-containing material;

i. Exact location where each bulk asbestos sample was taken (e.g., schematic and/or other detailed description sufficient for any person to match the bulk sample results to the material on site);

j. Complete copy of the laboratory report for bulk asbestos samples analyzed, which includes all of the following:

i. Laboratory name, address and NVLAP certification number;

ii. Bulk sample numbers;

iii. Bulk sample descriptions;

iv. Bulk sample results showing asbestos content; and

v. Name of the person at the laboratory that performed the analysis.

2. Information Regarding Asbestos-Containing Materials (including those presumed to contain asbestos).

a. Describe the color of each asbestos-containing material;

b. Identify the location of each asbestos-containing material within a structure, on a structure, from a structure, or otherwise associated with the project (e.g., schematic and/or other detailed description);

c. Provide the approximate quantity of each asbestos-containing material (generally in square feet or linear feet; and

d. Describe the condition of each asbestos-containing material (e.g. good, damaged). If the asbestos-containing material is damaged, describe the general extent and type of damage (e.g., flaking, blistering, crumbling, water damage, fire damage).

D. Asbestos Survey Posting.

Except as provided for in Section 8.02.F of this Regulation, a complete copy of an asbestos survey must be posted by the property owner or the owner's agent in a readily accessible and visible area at all times for inspection by the Agency and all persons at the work site. This applies even when the asbestos survey performed by an AHERA Building Inspector states there are no asbestos-containing materials in the work area. If it is not practical to post the asbestos survey in this manner, it must be made readily available for inspection by the Agency and all persons at the demolition site.

E. Asbestos Survey Retention.

The property owner, owner's agent, and the AHERA building inspector that performed the asbestos survey (when the asbestos survey has been performed by an AHERA building inspector), must retain a complete copy of the asbestos

survey for at least 24 months from the date the inspection was performed and provide a copy to the Agency upon request.

F. Exceptions.

1. Owner-Occupied, Single-Family Residence Renovation Performed by the Owner-Occupant.

For renovation of an owner-occupied, single-family residence performed by the owner-occupant, an asbestos survey is not required. An owner-occupant's assessment for the presence of asbestos-containing material prior to renovation of an owner-occupied, single-family residence is adequate. A written report is not required.

2. Demolition of a Structure 120 sq. ft. or less at a residential unit.

For demolition of a structure 120 sq. ft. or less at a residential unit, an asbestos survey is not required. A property owner's assessment for the presence of asbestos-containing material prior to demolition is adequate. A written report is not required.

3. Presuming Suspect Asbestos-Containing Materials are Asbestos-Containing Materials.

It is not required that an AHERA building inspector evaluate (e.g., sample and test) any material presumed to be asbestos-containing material. If material is presumed to be asbestos-containing material, this determination must be posted by the property owner or the owner's agent in a readily accessible and visible area at the work site for all persons at the work site. The determination must include a description, approximate quantity, and location of presumed asbestos-containing material within a structure, on a structure, from a structure, or otherwise associated with the project. The property owner, owner's agent, and the person that determined that material would be presumed to be asbestos-containing material, must retain a complete copy of the written determination for at least 24 months from the date it was made and must provide a copy to the Agency upon request. Except for Section 8.02.A through E of this Regulation, all other requirements remain in effect.

4. Alternate Asbestos Survey.

A written alternate asbestos survey method must be prepared and used on occasions when conventional sampling methods required in EPA regulation 40 CFR 763.86 cannot be exclusively performed (all other asbestos survey requirements in Section 8.02 of this Regulation apply). For example, conventional sampling methods may not be possible on fire damaged buildings or portions thereof (e.g., when materials are not intact or homogeneous areas are not identifiable). Conventional sampling methods shall not be used for rubble or debris piles, and ash or soil unless approved otherwise in writing by the Agency. If conventional sampling methods cannot exclusively be used and material is not presumed to be asbestos-containing material, alternate asbestos survey methodology must be used alone or, when possible, in combination with conventional survey methodology. An alternate asbestos survey methodology typically includes random sampling according to a grid pattern (e.g., random composite bulk samples at incremental 1' depths from 10' x 10' squares of a debris pile), but is not limited to such. An illustration of how the principles of such sampling techniques are applied can be found in the EPA publication, Preparation of Soil

Sampling Protocols: Sampling Techniques & Strategies, EPA/600/R-92/128, July 1992.

Reviser's note: The typographical error in the above material occurred in the copy filed by the Benton Clean Air Agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION

SECTION 8.03 ((General Requirements)) Notification Requirements

~~((A. The owner or operator of a demolition or renovation activity and before the commencement of the demolition or renovation shall thoroughly inspect the affected facility or residential unit where the demolition or renovation operation will occur for the presence of asbestos.~~

~~B. All Section 8.02 requirements shall apply to demolition and renovation activities at a facility or residential unit where the combined amount of RACM is:~~

- ~~1. Greater than forty-eight (48) square feet; or~~
- ~~2. Greater than ten (10) linear feet, unless the surface area of the pipe is greater than forty-eight (48) feet.)~~

A. General Requirements.

Except as provided for in Section 8.03.A.7 of this Regulation, it is unlawful for any person to cause or allow any work on a renovation or demolition unless a complete notification, including the required fee and any additional information requested by the Control Officer or his/her authorized representative, has been submitted to the Agency, in accordance with the notification waiting period requirements in Article 10, Section 10.08 of this Regulation. Unless otherwise approved by the Agency, the notification must be submitted by the property owner or owner's agent via the Agency's website, www.bentoncleanair.org. Notifications will not be accepted if the earliest project start date is greater than 365 days from the date of submittal.

1. When the Notification Waiting Period Begins.

The notification waiting period begins on the workday on which a complete notification is received by the Agency and ends after the notification waiting period in Section 10.08 of this Regulation has passed (e.g., A 10-day notification period means work on an asbestos project or demolition can begin on day 11). A notification is considered complete when all information requested on the notification, including the required fee and any additional information requested by the Control Officer or his/her authorized representative, is received by the Agency. The notification waiting period does not begin for incomplete notifications (e.g. unpaid fees, notifications where the asbestos project start date and/or completion date and/or demolition start date is listed as "To Be Determined", when types and quantities of asbestos are unknown, etc.).

2. Project Duration.

The duration of an asbestos project must be commensurate with the amount of work involved. The duration of the project may take into account applicable scheduling limitations (e.g., asbestos removal that needs to be done in phases, based on scheduling limitations determined by the property owner).

3. Multiple Asbestos Projects or Demolitions.

Notification for multiple structures may be filed by a property owner or owner's agent on one form if all the following criteria are met:

a. The notification applies only to renovations or demolitions on contiguous real properties having the same owner or real properties with the same owner separated only by a public right-of-way (e.g., alley or roadway).

b. The work will be performed by the same abatement and/or renovation/demolition contractor.

c. The notification includes the specific site address for each structure. Where a specific site address isn't available for each structure (e.g., at a large commercial (site with multiple structures), provide a detailed description/location for each structure.

d. The notification includes the amount and type of asbestos-containing material associated with each structure and indicates which structures will be demolished.

4. Notification Expiration.

Notifications are valid for no more than 365 days from the earliest original notification start date. The Agency may revoke a notification for cause (e.g., providing any false material statement, representation, or certification) and may require that a new notification be submitted with the appropriate non-refundable fee as set forth in Section 10.08 of this Regulation prior to work continuing.

5. Notification Posting.

A copy or printout of the notification and all amendments to the notification must be posted by the property owner or the owner's agent in a readily accessible and visible area at all times for inspection by the Agency and all persons at the asbestos project or demolition site. If it is not practical to post the notification and all amendments to the notification in this manner, the documents must be made readily available for inspection by the Agency and all persons at the demolition site.

6. Notification Retention.

The property owner, owner's agent, and the person that filed the notification, must retain a complete copy of all notification records for at least 24 months from the date the notification was filed with the Agency and provide a copy to the Agency upon request.

7. Notification Exceptions.

a. Renovation Performed by Owner-Occupant of an Owner-Occupied, Single Family Residence with No Asbestos.

Notification is not required for renovation of an owner-occupied, single family residence when the work is performed by the owner-occupant and asbestos will not be disturbed.

b. Demolition of Structures at Residential Units With a Projected Roof Area ^[2] 120 Square Feet.

Notification is not required for demolition of structures at residential units with a projected roof area less than or equal to 120 square feet, unless asbestos-containing material is present. If asbestos-containing material is present, asbestos project notification requirements apply. All other requirements remain in effect except as provided by Article 8 of this Regulation.

c. Abandoned Asbestos-Containing Material.

The Control Officer may waive part or all of the notification waiting period and project fee, by written authorization, for removal and disposal of abandoned (without the knowledge or consent of the property owner) asbestos-containing materials and for demolition of abandoned structures. All other requirements remain in effect.

d. Emergencies.

The advance notification period may be waived if an asbestos project or demolition must be conducted immediately due to a sudden, unexpected event that, if not immediately attended to, presents a safety or public health hazard, is necessary to protect equipment from damage, or is necessary to avoid imposing an unreasonable financial burden. This term includes operations necessitated by non-routine failures of equipment.

e. State of Emergency.

If a state of emergency is declared by an authorized local, state, or federal governmental official due to a storm, flooding, or other disaster, the Control Officer may temporarily waive part or all of the project fee(s) by written authorization. The written authorization must reference the applicable state of emergency, what fee(s) will be waived, to what extent the fee(s) will be waived, and the effective date(s) of the fee(s) waiver.

B. Amendments.1. Mandatory Amendments.

An amendment must be submitted to the Agency for any of the following changes in notification, must be submitted in accordance with Section 8.03.A of this Regulation and the advance notification requirements in Section 10.08 of this Regulation, and must be accompanied by the appropriate nonrefundable fee established in Section 10.08 of this Regulation:

a. Project Type.

Changes in the project type (e.g., from asbestos removal only to asbestos removal and demolition).

b. Job Size.

Increases in the job size category, which increase the fee or when the amount of asbestos affected changes by at least 20 percent. For an amendment where the project type or job size category is associated with a higher fee, a fee equal to the difference between the fee associated with the most recently submitted notification and the fee associated with the increased project type or job size category must be submitted. When there is an increase in the job size category which increases the fee, the additional quantities of friable asbestos-containing material must be itemized on the amendment form. If the original notification was filed as an emergency and there is an increase in the job size category which increases the notification fee category, the emergency fee applies to the new fee category.

c. Type of Asbestos.

Changes in the type or new types of asbestos-containing material that will be removed. All types and quantities of asbestos-containing material must be itemized on the amendment form.

d. Start Date.

Changes in the asbestos project start date (i.e. asbestos removal start date or earliest demolition start date). This

includes placing a project "on hold" (e.g., an asbestos project is temporarily delayed and a new project date has not been determined). If an asbestos project date is placed "on hold", an amendment taking it "off hold" must be filed prior to work on the asbestos project resuming. The new asbestos project date must be provided when the project is taken "off hold".

e. End Date.

Changes in the asbestos project end date greater than two days after the original end date.

Reviser's note: The typographical error in the above material occurred in the copy filed by the Benton Clean Air Agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

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AMENDATORY SECTIONSECTION 8.04 ((~~Notification Requirements~~)) **Asbestos Removal Requirements Prior to Renovation or Demolition**

~~((A. All demolition and renovation activities require written notification to the THE AGENCY before stripping, removal, or otherwise handling or disturbing RACM as per Section 8.03. Such notification shall be subject to a fee as per Article 10 and payable at the time of application.~~

B. Notification Requirements

~~1. Demolition. The owner or operator shall submit a Notice of Intent to Remove Asbestos or to Demolish (NOI) form at least ten (10) working days before proceeding with the demolition, regardless of the presence of RACM.~~

~~2. Renovation. The owner or operator shall submit an NOI form at least ten (10) working days before proceeding with the renovation.~~

~~3. Demolition or Renovation Amendment. The owner or operator amending a previously submitted NOI, as per Section 8.02, shall submit an amended NOI form before proceeding with an activity that requires the amendment.~~

~~4. Emergency Renovation Operation. The owner or operator of an emergency renovation operation shall submit an NOI form and an Emergency Waiver Request form before proceeding with the renovation.~~

~~5. Alternate Removal Methods. The owner or operator proposing to use alternate removal methods to those in Section 8.02 shall submit an NOI form and supporting documentation for the alternate method at least ten (10) working days.)~~

A. Removal to Prevent Disturbance.

Except as provided in Section 8.04B of this Regulation, it is unlawful for any person to cause or allow any demolition or renovation that may disturb asbestos-containing material or damage a structure so as to preclude access to asbestos-containing material for future removal, without first removing all asbestos-containing material in accordance with the requirements of this regulation. Asbestos-containing material need not be removed from a component if the component can be removed, stored, or transported for reuse without disturbing or damaging the asbestos.

B. Exceptions.1. Hazardous Conditions.

Asbestos-containing material need not be removed prior to a demolition or renovation, if the property owner demonstrates to the Control Officer that it is not accessible because of hazardous conditions such as: structures or buildings that are structurally unsound and in danger of imminent collapse, or other conditions that are immediately dangerous to life and health. The property owner must submit the written determination, along with any notification required in Section 8.03, of the hazard by an authorized government official or a licensed structural engineer, and must submit the procedures that will be followed for controlling asbestos emissions during the demolition or renovation and disposal of the asbestos-containing waste material.

2. Leaving Nonfriable Asbestos-Containing Material in Place During Demolition.

Nonfriable asbestos-containing material may be left in place during demolition, if an AHERA Project Designer has evaluated the work area, the type of asbestos-containing materials involved, the projected work practices, and the engineering controls, and demonstrates, via written report, to the Agency that the asbestos-containing material will remain nonfriable during all demolition activities and subsequent disposal of the debris. The written report must include a description of the work area, the type of asbestos-containing materials involved, the projected work practices, and the engineering controls. No asbestos-containing material shall remain in place if the demolition involves burning or other activities that would result in the potential release of asbestos-containing materials to the ambient air.

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTIONSECTION 8.05 ((Additional Requirements, Residential Units)) Procedures for Asbestos Projects

((A. Demolition or renovation activities at a residential unit involving stripping, removal, or otherwise handling or disturbing RACM as per Section 8.03 shall only be performed by:

1. The residential unit owner, if the owner occupies the residential unit; or
2. A certified asbestos abatement contractor.

B. A residential unit owner performing demolition or renovation activities at a residential unit shall participate in an educational program prepared by the THE AGENCY concerning the hazards of asbestos removal. This program may include:

1. Watching an informational video;
2. Agreement to read and understand informational pamphlets, provided by the THE AGENCY, concerning proper residential asbestos removal. Any questions pertaining to this material shall be addressed by the THE AGENCY.))

A. Training Requirements.

It is unlawful for any person to cause or allow any work on an asbestos project unless it is performed by persons trained and certified in accordance with the standards estab-

lished by the Washington State Department of Labor & Industries, the federal Occupational Safety & Health Administration, or the United States Environmental Protection Agency (whichever agency has jurisdiction) commensurate to the type of work being performed and whose certification is current. This certification requirement does not apply to asbestos projects conducted in an owner-occupied, single-family residence performed by the resident owner of the dwelling.

B. Standard Asbestos Project Work Practices.

Standard asbestos project work practices generally involve manual removal methods used for asbestos-containing material that is intact and readily identifiable. Standard asbestos work practices require removal of asbestos-containing material using all procedures described in Section 8.05.B.1-6 of this Regulation. Except as provided in Sections 8.06, 8.07, and 8.08 of this Regulation, it is unlawful for any person to cause or allow the removal or disturbance of asbestos-containing material unless all the following requirements are met:

1. Controlled Area.

The asbestos project must be conducted and maintained in a controlled area, clearly marked by barriers and asbestos warning signs. Access to the controlled area must be restricted to authorized personnel only, including occasions when asbestos abatement is not actively occurring (e.g., when workers are on break or off-site).

2. Negative Pressure Enclosure.

If a negative pressure enclosure is employed it must be equipped with transparent viewing ports, if feasible, and must be maintained in good working order.

3. Wetting Asbestos-Containing Material Prior to and During Removal.

a. Absorbent asbestos-containing materials, such as surfacing material and thermal system insulation, must be saturated with a liquid wetting agent prior to removal. Wetting must continue until all the material is permeated with the wetting agent. Any unsaturated absorbent asbestos-containing material exposed during removal must be immediately saturated with a liquid wetting agent and kept wet until sealed in leak-tight containers.

b. Nonabsorbent asbestos-containing materials, such as cement asbestos board or vinyl asbestos tile, must be continuously coated with a liquid wetting agent on any exposed surface prior to and during removal. Any dry surfaces of nonabsorbent asbestos-containing material exposed during removal must be immediately coated with a liquid wetting agent and kept wet until sealed in leak-tight containers.

c. Metal components (such as valves, fire doors, and reactor vessels) that have internal asbestos-containing material do not require wetting of the asbestos-containing material if all access points to the asbestos-containing materials are welded shut or the component has mechanical seals, which cannot be removed by hand, that separate the asbestos-containing material from the environment.

4. Handling.

Except for surfacing material being removed inside a negative pressure enclosure, asbestos-containing material that is being removed, has been removed, or may have fallen off components during an asbestos project must be carefully

lowered to the ground or the floor, not dropped, thrown, slid, or otherwise damaged.

5. Asbestos-Containing Waste Material.

a. All absorbent, asbestos-containing waste material must be kept saturated with a liquid wetting agent until sealed in leak-tight containers. All nonabsorbent, asbestos-containing waste material must be kept coated with a liquid wetting agent until sealed in leak-tight containers.

b. All asbestos-containing waste material resulting from an asbestos project must be sealed in leak-tight containers as soon as possible after removal, but no later than the end of each work shift.

c. The exterior of each leak-tight container must be free of all asbestos residue and must be permanently labeled with an asbestos warning sign as specified by the Washington State Department of Labor and Industries or the federal Occupational Safety and Health Administration.

d. Immediately after sealing, each leak-tight container, or the outer packaged container if the waste is aggregated, must be permanently marked with the date the material was collected for disposal, the name of the waste generator, and the address at which the waste was generated. This marking must be made at the site where the waste was generated and must be readable without opening the container.

e. Leak-tight containers must not be dropped, thrown, slid, or otherwise damaged.

6. Visible Emissions.

No visible emissions may result from an asbestos project.

AMENDATORY SECTION

SECTION 8.06 ((Unexpected Discovery of Asbestos) Alternate Means of Compliance

~~((In the event of an unexpected discovery of asbestos during a renovation or demolition activity, the owner or operator shall stop work until the requirements of Section 8.02 have been met.))~~

A. Alternate Asbestos Project Work Practices for Removing Asbestos-Containing Material Prior to Renovation or Demolition.

Unless otherwise approved by the Agency in writing, alternate means of compliance must be used where standard asbestos project work practices in Section 8.05.B of this Regulation cannot be utilized to remove asbestos-containing material (financial considerations aside) prior to renovation or demolition; when asbestos-containing material has been disturbed or is otherwise no longer intact (e.g., when demolition has already occurred or a similar situation exists, typically leaving a pile/area of debris, rubble, ash, or soil); or when mechanical methods are used for removal. Projects performed under this section must be performed under the alternate asbestos project work practice notification category and must comply with all of the following:

1. Qualifications of Person(s) Preparing an Alternate Work Plan (AWP).

An AHERA Project Designer must evaluate the work area, the type and quantity (known or estimated) of asbestos-containing material, the projected work practices, and the engineering controls and develop an AWP that ensures the

planned control methods will be as effective as the work practices in Section 8.05.B of this Regulation.

2. AWP Contents.

The AWP must contain all of the following information:

a. Reason(s) why standard work practices cannot be utilized;

b. Date(s) the work area was evaluated by the person(s) that prepared the AWP;

c. Site address(es)/location(s) where the inspection was performed;

d. The purpose of the evaluation (e.g., asbestos removal from an electrical structure or component where standard wet methods cannot be utilized, removal and disposal of a debris pile resulting from a fire-damaged structure, etc.);

e. If an asbestos survey was performed, incorporate it by reference;

f. All procedures that will be followed for controlling asbestos emissions during the asbestos project;

g. Procedures that will be followed for the final inspection of the property to ensure that asbestos-containing material has been removed and disposed of in accordance with applicable regulations;

h. A statement that the AWP will be as effective as the work practices in Section 8.06.B of this Regulation;

i. Signature(s) of the person(s) that prepared the AWP; and

j. Certification(s) and/or license number(s), and date(s) that certification(s) and/or license(s) expire(s), for the person(s) that prepared the AWP.

3. Asbestos Survey.

If an asbestos survey is not performed pursuant to Section 8.02 of this Regulation, it must be presumed that the asbestos project involves friable and nonfriable asbestos-containing material.

4. AWP Procedures.

The AWP must identify in detail all procedures that will be followed for controlling asbestos emissions during the asbestos project (e.g., during asbestos removal, when workers are off-site, etc.). All procedures and requirements in the AWP must be followed. Unless alternate procedures are specified in the AWP by an AHERA Project Designer and a Certified Industrial Hygienist or an AHERA Project Designer and a Licensed Professional Engineer, the AWP must include all of the following requirements in Section 8.06.A.4.a through g of this Regulation:

a. Controlled Area.

The asbestos project must be conducted in a controlled area, clearly marked by barriers and asbestos warning signs. Access to the controlled area must be restricted to authorized personnel only. The controlled area must protect persons outside the controlled area from potential exposure to airborne asbestos.

b. Wetting.

All materials and debris must be handled in a wet condition.

i. Absorbent materials must be saturated with a liquid wetting agent prior to removal. Wetting must continue until all the material is permeated with the wetting agent. Any unsaturated surfaces exposed during removal must be wetted immediately.

ii. Nonabsorbent materials must be continuously coated with a liquid wetting agent on any exposed surface prior to and during the removal. They must be wetted after removal, as necessary, to assure they are wet when sealed in leak-tight containers. Any dry surfaces exposed during removal must be wetted immediately.

c. Asbestos-Containing Waste Materials.

i. All asbestos-containing waste material and/or asbestos contaminated waste material must be kept wet and must be sealed in leak-tight containers while still wet, as soon as possible after removal but no later than the end of each work shift.

ii. The exterior of each leak-tight container must be free of all asbestos residue and must be permanently labeled with an asbestos warning sign as specified by the Washington State Department of Labor and Industries or the federal Occupational Safety and Health Administration.

iii. Immediately after sealing, each leak-tight container must be permanently marked with the date the material was collected for disposal, the name of the waste generator, and the address at which the waste was generated. This marking must be readable without opening the container.

iv. Leak-tight containers must be kept leak-tight.

v. The asbestos-containing waste material must be stored in a controlled area until transported to an approved waste disposal site.

d. Air Monitoring.

Procedures that must be followed for air monitoring at the outside perimeter of the controlled area, both upwind and downwind, to ensure that the asbestos fiber concentrations do not exceed a net difference (between concurrent upwind and downwind monitoring results) of 0.01 fibers per cubic centimeter (f/cc) as determined by the NIOSH Manual of Analytical Methods, Method 7400 (asbestos and other fibers by PCM).

i. The procedures must require that any air sampling cassette(s) that become(s) overloaded with dust be immediately replaced. Work must stop until an AHERA Project Designer has re-evaluated the engineering controls for dust control, revised the AWP as necessary, and the owner or owner's agent implements all revisions to the AWP.

ii. The Agency must immediately be notified by the owner or owner's agent if the airborne fiber concentrations exceed a net difference of 0.01 f/cc and work must stop until an AHERA Project Designer has re-evaluated the engineering controls, revised the AWP as necessary, and the owner or owner's agent implements all revisions to the AWP.

e. Competent Person.

i. A competent person must be present for the duration of the asbestos project (includes demolition) and must observe work activities at the site.

ii. The competent person must stop work at the site to ensure that friable asbestos-containing material found in the debris, which can readily be separated, is removed from the main waste stream and is placed and maintained in leak-tight containers for disposal.

iii. The competent person must stop work if AWP procedures are not be followed and must ensure that work does not resume until procedures in the AWP are followed.

f. Separation of Materials.

If the project involves separation of clean(ed) materials from debris piles (e.g., rubble, ash, soil, etc.) that contain or are contaminated with asbestos-containing materials, the material separation procedures must be included in the AWP. In addition to these procedures, the following requirements apply:

i. The AWP must identify what materials will be separated from the asbestos-containing material waste stream and must describe the procedures that will be used for separating and cleaning the materials. All materials removed from the asbestos-containing waste material stream must be free of asbestos-containing material.

ii. A competent person must ensure that materials being diverted from the asbestos-containing waste material stream are free of asbestos-containing material.

g. Visible Emissions.

No visible emissions may result from an asbestos project.

5. Record Keeping

a. The AWP must be kept at the work site for the duration of the project and made available to the Agency upon request. The property owner or owner's agent and AHERA Project Designer that prepared the AWP must retain a complete copy of the AWP for at least 24 months from the date it was prepared and make it available to the Agency upon request.

b. Complete copies of other asbestos-related test plans and reports (e.g., testing soil for asbestos, air monitoring for asbestos, etc.) associated with the project must also be retained by the property owner or owner's agent for at least 24 months from the date it was performed and made available to the Agency upon request. The person(s) preparing and performing such tests must also retain a complete copy of these records for at least 24 months from the date it was prepared and make it available to the Agency upon request.

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AMENDATORY SECTION

SECTION 8.07 ((Safeguards for the Public in the Case of Suspected Asbestos Spills or Scattering of Suspected Asbestos Material)) Exception for Hazardous Conditions

((A. Until such time as it is determined otherwise, all such cases of spills or scattering of suspected asbestos material, the material shall be considered to be RACM

B. Actions shall be taken immediately to contain the material and shall include, but are not limited to:

1. Treat the area with proper precautions associated with RACM;

2. Regulate the area in which the spill or scattering occurred by preventing entry of unprotected and/or unauthorized persons;

3. Posting signage indicating the potential danger;

4. Locking or barring doors in buildings, if applicable; and

5. If the spill or scattering of the RACM may pose an imminent threat to human health, safety, or to the environ-

ment, the spill shall be reported to the Benton County Emergency Response Center ("911"), the Washington State Department of Ecology, and the THE AGENCY.)

When the exception for hazardous conditions is being utilized, all of the following apply:

A. Friable and nonfriable asbestos-containing material need not be removed prior to demolition, if it is not accessible (e.g., asbestos cannot be removed prior to demolition) because of hazardous conditions such as structures or buildings that are structurally unsound, structures or buildings that are in danger of imminent collapse, or other conditions that are immediately dangerous to life and health.

B. An authorized government official or a licensed structural engineer must determine in writing that a hazard exists, which makes removal of asbestos-containing material dangerous to life or health. The determination must be retained for at least 24 months from the date it was prepared and made available to the Agency by the property owner or owner's agent upon request.

C. An AHERA Project Designer must evaluate the work area, the type and quantity (known or estimated) of asbestos-containing material, the projected work practices, and the engineering controls and develop an AWP that ensures the planned control methods will be protective of public health. The AWP must contain all of the following information:

1. Date(s) the work area was evaluated by the person(s) that prepared the AWP;

2. Site address(es)/location(s) where the inspection was performed;

3. A copy of the hazardous conditions determination from a government official or licensed structural engineer;

4. If an asbestos survey was performed, include a copy or incorporate it by reference;

5. All procedures that will be followed for controlling asbestos emissions during the asbestos project;

6. A statement that the AWP will be protective of public health;

7. Signature(s) of the person(s) that prepared the AWP; and

8. Certification(s) and/or license number(s), and date(s) that certification(s) and/or license(s) expire(s), for the person(s) that prepared the AWP.

D. AWP Procedures.

The requirements of Section 8.06.A.3-5 of this Regulation and all other applicable requirements, including those specified in the AWP, must be complied with.

NEW SECTION

SECTION 8.08 Disposal of Asbestos-Containing Waste Material

A. Disposal Within 10 Days of Removal.

Except as provided in Section 8.08.B of this Regulation, it is unlawful for any person to cause or allow the disposal of asbestos-containing waste material unless it is deposited within 10 calendar days of removal at a waste disposal site authorized to accept such waste.

B. Temporary Storage Site.

A person may establish a temporary storage site for the purpose of collecting and temporarily storing asbestos-con-

taining waste material if it is approved by the Control Officer and all of the following conditions are met:

1. A complete application for Temporary Storage of asbestos containing waste material is submitted to and approved by the Agency.

2. The application must be accompanied by a non-refundable fee as set in the fee schedule.

3. Accumulated asbestos-containing waste material must be kept in a controlled storage area posted with asbestos warning signs and accessible only to authorized persons.

4. All asbestos-containing waste material must be stored in leak-tight containers which are maintained in leak-tight condition.

5. The storage area must be locked except during transfer of asbestos-containing waste material.

6. Storage, transportation, and disposal must not exceed 90 calendar days. An extension may be granted upon request.

7. Asbestos-Containing Waste Material Temporary Storage Permits approved by the Agency are valid for one calendar year unless a different time frame is specified in the permit.

NEW SECTION

SECTION 8.09 Compliance With Other Rules

Other government agencies have adopted rules that may apply to asbestos regulated under these rules including, but not limited to, the U.S Environmental Protection Agency, the U.S. Occupational Safety and Health Administration, and the Washington State Department of Labor and Industries. Nothing in the Agency's rules must be construed as excusing any person from complying with any other applicable local, state, or federal requirement.

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AMENDATORY SECTION

SECTION 9.01 Source Registration Required

A. The Agency regulates the sources of air contaminants in Benton County under the authority of RCW 70.94.151. Any source ((~~under I~~))identified in WAC 173-400-100 whether publicly or privately owned, must register with the Agency unless exempted.

B. All facilities with Permits issued under the Notice of Construction Program (WAC 173-400-110) are considered part of the Registration Program (WAC 173-400-099) and subject to annual registration fees.

AMENDATORY SECTION

SECTION 10.05 Registered Source Fees

A. The Agency will charge an annual registration fee pursuant to RCW 70.94.151 for services provided in administering the registration program. Fees received under the registration program will not exceed the cost of administering the registration program. The Board will review the registration program on an annual basis.

B. ~~((All air contaminant sources required by Article 9 of this Regulation to be registered are subject to the following fees:~~

~~1. Class 1 and Class 1 Toxic Sources will pay an annual registration fee of:~~

~~a. A base fee of three hundred fifty dollars (\$350.00);~~

~~b. Fifty dollars (\$50.00) per ton of criteria pollutant emitted;~~

~~c. One hundred fifty dollars (\$150.00) per ton or fraction of a ton of toxic air pollutant emitted; and~~

~~d. Fifty (\$50.00) dollars per emission process unit or emission point.~~

~~2. Class 2 and Class 2 Toxic Sources will pay an annual registration fee of:~~

~~a. A base fee of seven hundred fifty dollars (\$750.00);~~

~~b. Fifty dollars (\$50.00) per ton of criteria pollutant emitted;~~

~~c. One hundred fifty dollars (\$150.00) per ton or fraction of a ton of toxic air pollutant emitted; and~~

~~d. Fifty (\$50.00) dollars per emission process unit or emission point.~~

~~3. Synthetic Minor Sources will pay an annual registration fee of:~~

~~a. A base fee of fifteen hundred dollars (\$1,500.00);~~

~~b. Fifty dollars (\$50.00) per ton of criteria pollutant emitted;~~

~~c. One hundred fifty dollars (\$150.00) per ton or fraction of a ton of toxic air pollutant emitted; and~~

~~d. Fifty (\$50.00) dollars per emission process unit or emission point.~~

~~4. Gasoline facilities will pay an annual registration fee of:~~

~~a. Gasoline Loading Terminals: two thousand dollars (\$2,000.00) plus fifty dollars (\$50.00) per ton of pollutant emitted;~~

~~b. Bulk Gasoline Plants: eight hundred dollars (\$800.00) plus fifty dollars (\$50.00) per ton of pollutant emitted; and~~

~~c. Gasoline Dispensing Facilities:~~

~~i. Fee is determined by multiplying current annual gasoline throughput (greater than 400,000) in gallons times \$0.0005 per gallon.~~

~~2) Fee for stations with annual throughput less than 400,000 gallons will be two hundred dollars (\$200.00).) All registrants must pay a fee in accordance with the current Fee Schedule.~~

C. Fee Payment.

1. Fee Payment.

The annual registration fee is due and payable by ~~((April 15th of each year))~~ the date on the invoice, unless otherwise specified in writing to the source by the Agency.

2. Late Payment of Fees.

A late fee will be charged to a source for late payment of all or part of its annual registration fee at the following rates:

a. Ten percent of the source's total assessed fee for payment received after the due date for fee payment but up to the first thirty days past the due date for fee payment;

b. Fifteen percent of the source's total assessed fee for payment received between the thirty-first day and the sixtieth day past the due date for fee payment; and

c. Twenty-five percent of the source's total assessed fee for payment received between the sixty-first day and the ninetieth day past the due date for fee payment.

3. Failure to Pay Fees.

The Agency will charge a penalty to a permit program source under its jurisdiction for failure to pay all or part of its annual registration fee and/or penalties thereon after ninety days past the due date for fee payment in an amount three times the source's total assessed fee. Failure to pay all or part of an annual registration fee after the ninety first day past the due date may result in enforcement action.

4. Other Penalties.

The penalties authorized in Section 10.08.A.5.b and c of this Regulation are additional to and in no way prejudice the Agency's ability to exercise other civil and criminal remedies, including the authority to revoke a source's operating permit for failure to pay all or part of its operating permit fee.

5. Facility Closure.

Sources that permanently cease operations will be required to pay only a pro rata portion of the annual registration fee for the fiscal year in which they cease operations. The portion of the fee to be paid will be calculated by dividing the number of calendar days that have passed in the relevant calendar year at the time the source ceases operations by the total of 365 calendar days, and multiplying the fraction thus derived by the fee that the source would have paid for the relevant calendar year, had it not ceased operations.

6. Transfer in Ownership.

Transfer in ownership of a source will not affect that source's obligation to pay registration fees. Any liability for fee payment, including payment of late payment and other penalties will survive any transfer in ownership of a source.

AMENDATORY SECTION

SECTION 10.06 Fees for Application for Notice of Construction (NOC) for Stationary and Portable Sources, and Notice of Intent to Operate (NIO) Relocating Portable Sources

A. NOC Application Filing Fee.

An application filing fee will be due and payable at the time of filing the NOC application. The filing fee is non-refundable and is contained in the Fee Schedule.

~~((1. Permanent stationary source: The filing fee will be four hundred dollars (\$400.00).~~

~~2. Portable source: The filing fee will be five hundred dollars (\$500.00).))~~

B. Portable Source NIO Filing Fee.

A Filing fee will be due and payable at the time of filing the NIO form. The fee is contained in the Fee Schedule. The filing fee is non-refundable. NIO must be received at least 15 days prior to starting operation.

1. Notice of Intent to Operate: The owner or operator of a portable source with a valid permit per WAC 173-400-036 must notify the Agency of the intent to relocate and operate within the jurisdiction of the Agency at least 15 days prior to starting operation by submitting a complete Notice of Intent to Operate (NIO). You must receive an Approval to Operate Portable Source from Benton Clean Air Agency prior to starting operation.

~~(a. Relocation of portable source with the Agency permit. The filing fee will be one hundred fifty dollars (\$150.00) and will be charged each time the source relocates within the boundaries of Benton County. Additional fees will apply per Table 10-1.~~

~~b. Inter Jurisdictional Relocation of portable sources under WAC 173-400-036. The filing and technical review fee will be five hundred dollars (\$500.00). Additional fees will apply per Table 10-1.)~~

C. NOC or NIO Engineering Examination and Inspection Fee.

1. An examination and inspection fee will be charged according to the Fee Schedule ~~((Table 10-1.))~~ The engineering and inspection fee will be due and payable at the time of filing the NOC or NIO, unless otherwise specified to the applicant by the Agency.

2. Emergency application or expedited review fee will be two (2) times the normal application and review fee.

D. Additional Fees.

Additional fees may be charged according to the Fee Schedule ~~((Table 10-2. Table 10-2 f))~~ Fees are cumulative. The additional fees will be due and payable at the time of filing the NOC or NIO, unless otherwise specified to the applicant by the Agency.

1. Fee amounts in the Fee Schedule ~~((Table 10-1 and 10-2))~~ listed as "Actual" are based upon the Agency's actual cost to complete a review or task and will be determined using the actual or direct hours expended completing the specific review or task.

2. If an NOC or NIO applicability determination fee is received by the Agency and an NOC or NIO is determined not to be required, the Engineering Examination and Inspection Fee will be the actual time expended at the current engineering charge rate in dollars per hour.

E. Any NOC or NIO application received by the Agency without the accompanying fee will be rejected and returned to sender. Such action will not constitute a determination of completeness or incompleteness as per WAC 173-400-111.

((Table 10-1: NOC or NIO Engineering Examination and Inspection Fees

CATEGORY	FEE	CATEGORY	FEE
Fuel Burning Equipment with or without Air Pollution Equipment (million Btu/hr)		Spray Painting (per booth)	\$500
5 or less	\$500	Dry Cleaner (per machine)	\$600
Greater than 5 to 10	\$600	Coffee Roaster.	\$700
Greater than 10 to 30	\$750	Asphalt Plant, Cement Plant, or	
Greater than 30 to 50	\$900	Rock Crushing Plant (Non-Portable)	\$2,000
Greater than 50 to 100	\$1,200	Asphalt Plant or Concrete Plant,	
Greater than 100 to 250	\$2,500	Plant (Portable) engineering fee	\$500
Greater than 250 to 500	\$4,000	Initial Filing Fee	\$400
Greater than 500 \$6,000		Particulate matter and fugitive emissions from rock-	
Fuel change or new fuel	1/2 new installation fee	crushing, material transfer and ship loading (Emissions -	
Process Equipment, Air Pollution Control Device, and/or		tons per year):	
Uncontrolled Process Discharge (ft³/min)		Less than or equal to 10	\$ 600.00
50 or less	\$600	Greater than 10 to 50	\$1,000.00
Greater than 50 to 5,000	\$700	Greater than 50 to 100	\$1,500.00
Greater than 5,000 to 20,000	\$800	Greater than 100 to 250	\$2,500.00
Greater than 20,000 to 50,000	\$900	Greater than 250	\$6,000.00
Greater than 50,000 to 100,000	\$950		
Greater than 100,000 to 250,000	\$1,000	Diesel engine generators/pumps (Aggregate horsepower-	
Greater than 250,000 to 500,000	\$2,000	rating):	
Greater than 500,000	\$4,000	Less than or equal to 100	\$600.00
Refuse Burning Equip (tons/day)		Greater than 100 to 500	\$700.00
0.5 or less	\$700	Greater than 500 to 2,000	\$1,000.00
Greater than 0.5 to 5	\$800	Greater than 2,000 to 5,000	\$1,500.00
Greater than 5 to 12	\$1,000	Greater than 5,000 to 10,000	\$3,000.00
Greater than 12 to 50	\$3,000	Greater than 10,000	\$6,000.00
Greater than 50 to 250	\$6,000		
Greater than 250	\$12,000		

CATEGORY	FEE	CATEGORY	FEE
Other Incinerators (pounds/hr)		Soil Thermal Desorption Unit	
100 or less	\$300	Initial	\$3,000
Greater than 100 to 200	\$600	Relocation of Unit	\$1,000
Greater than 200 to 500	\$1,200	Odor Source	\$500
Greater than 500 to 1000	\$2,400	Composting Facility	Actual
Greater than 1000	\$3,000	Landfill Gas System	Actual
Storage Tanks (gal)		Soil and Groundwater Remediation	Actual
10,000 or less	\$600	Review of projects under RCW 70.105D.090	Actual
Greater than 10,000 to 40,000	\$1000	Review of Ecology "Agreed Orders" and "Consent Orders" pursuant to RCW 70.105D.090(1)	Actual
Greater than 40,000 to 100,000	\$1,500		
Greater than 100,000	\$2000	All other sources not listed	greater of \$1000 or Actual
Gasoline Dispensing Facilities			
Stage I	\$500		
Stage II	\$600		
Stage I and II Combined	\$700		
Toxics review for gasoline facility	\$1,500		
Removal of Stage II	\$600		

Table 10-2: Additional Fees

CATEGORY	FEE	CATEGORY	FEE
Public Notices	Actual	Variance Request	Actual
Publishing of Public Notices	Actual	Alternative Opacity Limits Review	Actual
Public Hearings	Actual	Inspection of Source that began Construction/Operation without Approval/Permit	greater of \$500 or Actual
Air Toxics Screening as per Chapter 173-460 WAC		Follow up inspection after identified violations have not been fixed	\$100.00
Review of source supplied ASIL	\$300	Synthetic Minor Determination	Actual
Review of source supplied risk analysis	\$1000	Major Source, Major Modification, or PSD Thresholds	Actual
BCAA conducted screening analysis	Actual	Emission Units subject to NSPS or NESHAP (except residential woodstoves, heaters, asbestos renovation or demolition and PCE dry cleaning)	Actual
NOC/NIO Application Assistance	Actual	Construction or Reconstruction of a Major Source of Hazardous Air Pollutants	Actual
NOC/NIO Applicability Determination	Actual	Each CEM or Alternate Monitoring Device	Actual
NOC-CEM or Alternate Monitoring Device Installed	Actual	Each Source Test Required in NOC	Actual
Environmental Impact Statement Review	Actual	Opacity/Gain Loading Correlation	Actual
NOC Order of Approval Modification	lesser of 1/2 NOC/NIO fee or \$350	Bubble Application	Actual
RACT/BACT/MACT/BART/LAER Determination	Actual	Netting Analysis	Actual))
Emission Offset Analysis	Actual		
Emission Reduction Credit (ERC) Application	Actual		

Reviser's note: The typographical error in the above material occurred in the copy filed by the Benton Clean Air Agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION

SECTION 10.07 State Environmental Policy Act (SEPA) Fees

A. Where review of an Environmental Impact Statement (EIS), Environmental Checklist, or an addendum to, or adop-

tion of, an existing environmental document pursuant to Chapter 197-11 WAC is required, in association with an NOC or a NIO, the applicant will pay a review fee of the greater of:

1. One-hundred fifty dollars (\$150.00), due and payable at the time of submittal; or

2. Actual costs to complete the review or task and will be determined using the actual or direct hours expended completing the specific review and the corresponding hourly rate of each staff person directly involved. Actual costs will be billed by the Agency to the owner, operator, or applicant after a threshold determination has been made and/or a preliminary determination has been issued.

B. Additional fees may be charged according to the Fee Schedule ((Table 10-2. Table 10-2 f)) Fees are cumulative. The additional fees will be due and payable at the time of filing, unless otherwise specified to the applicant by the Agency.

Reviser's note: The typographical error in the above material occurred in the copy filed by the Benton Clean Air Agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION

SECTION 10.08 Asbestos Fees and Waiting Periods

A. Any fee required under Table 10-1((3)) for asbestos projects will be due and payable at the time of filing, unless otherwise specified to the applicant by the Agency.

B. Failure to pay all or part of the fee may result in the commencement of a formal enforcement action.

C. The waiting period begins at the time of filing.

Table 10-1((3)): Asbestos fees

Demolition/Asbestos Projects at Residential Units		
Activity	Waiting Period	Fee
Demolition	5 Days	\$50
Owner Occupied Single Family Residence Asbestos Project ≥ 10 linear. ft. or ≥48 sq. ft. of friable ACM performed by ((residing)) owner-occupant	Prior Notice	\$25
<u>Asbestos Project Involving Only Non-Friable ACM That Will Remain Non-Friable</u>	<u>Prior Notice</u>	<u>\$25</u>
All Other Residential Asbestos Projects ((-)) ≥ 10 linear feet or ≥48 sq. ft	3 Days	\$50
<u>Renovation with No ACM</u>	<u>Prior Notice</u>	<u>\$0</u>
Demolition or Asbestos Project Amendment	Prior Notice	\$0
Emergency Notification Waiver	Prior Notice	Twice the Regular Fee
Asbestos Project Using Alternate Work Practices	10 Days	Twice the Regular Fee

Demolition/Asbestos Projects at Facilities		
Activity	Waiting Period	Fee
Demolition	10 Days	\$150
<u>Asbestos Project Involving Only Non-Friable ACM That Will Remain Non-Friable</u>	<u>Prior Notice</u>	<u>\$25</u>
Asbestos Project (amount of friable ACM):	10 Days	\$150
10 to 259 ln ft and/or 48 to 159 ft ²	10 Days	\$325
260 to 999 ln ft and/or 160 to 4,999 ft ²	10 Days	\$650
1,000 to 9,999 ln ft and/or 5,000 to 49,999 ft ²	10 Days	\$1800
Over 10,000 ln ft and/or Over 50,000 ft ²		
<u>((Annual Notification</u>	<u>Prior Notice</u>	<u>\$1800))</u>
<u>Renovation with No ACM</u>	<u>Prior Notice</u>	<u>\$0</u>
Demolition or Asbestos Project Amendment	Prior Notice	\$0
Emergency Notification Waiver	Prior Notice	Twice the Regular Fee
Asbestos Project Using Alternate Work Practices	10 Days	Twice the Regular Fee
Asbestos Containing Waste Material Temporary Storage Permit		
ACWM Temporary Storage Permit Application		\$75

AMENDATORY SECTION

SECTION 10.09 Title 5 Air Operating Permit Fees

[Statutory Authority RCW 70.94.161]

All eligible sources under Chapter 173-401 WAC will be subject to the annual fees described in this Section.

A. Permanent annual fee determination and certification.
 1. Fee Determination.
 a. Fee Determination.

The Agency will develop a fee schedule using the process outlined below, according to which it will collect fees from permit program sources under its jurisdiction. The fees

will be sufficient to cover all permit administration costs. The Agency will also collect its jurisdiction's share of Ecology's development and oversight costs. The fee schedule will differentiate as separate line items the Agency and Ecology's fees. Opportunities for public participation will be afforded throughout the fee determination process, as provided in Section 10.08.A.3.a of this Regulation.

b. Fee Eligible Activities.

The costs of permit administration and development and oversight activities are fee eligible.

i. Permit Administration.

Permit administration costs are those incurred by the Agency in administering and enforcing the operating permit program with respect to sources under its jurisdiction. Eligible permit administration costs are as follows:

(a) Pre-application assistance and review of an application and proposed compliance plan for a permit, permit revision, or renewal;

(b) Source inspection, testing, and other data-gathering activities necessary for the development of a permit, permit revision, or renewal;

(c) Acting on an application for a permit, permit revision, or renewal, including the costs of developing an applicable requirement as part of the processing of a permit, permit revision, or renewal, preparing a draft permit and fact sheet, and preparing a final permit, but excluding the costs of developing BACT, LAER, BART, or RACT requirements for criteria and toxic air pollutants;

(d) Notifying and soliciting, reviewing and responding to comment from the public and contiguous states and tribes, conducting public hearings regarding the issuance of a draft permit and other costs of providing information to the public regarding operating permits and the permit issuance process;

(e) Modeling necessary to establish permit limits or to determine compliance with permit limits;

(f) Reviewing compliance certifications and emissions reports and conducting related compilation and reporting activities;

(g) Conducting compliance inspections, complaint investigations, and other activities necessary to ensure that a source is complying with permit conditions;

(h) Administrative enforcement activities and penalty assessment, excluding the costs of proceedings before the pollution control hearings board and all costs of judicial enforcement;

(i) The share attributable to permitted sources of the development and maintenance of emissions inventories;

(j) The share attributable to permitted sources of ambient air quality monitoring and associated recording and reporting activities;

(k) Training for permit administration and enforcement;

(l) Fee determination, assessment, and collection, including the costs of necessary administrative dispute resolution and penalty collection;

(m) Required fiscal audits, periodic performance audits, and reporting activities;

(n) Tracking of time, revenues and expenditures, and accounting activities;

(o) Administering the permit program including the costs of clerical support, supervision, and management;

(p) Provision of assistance to small businesses under the jurisdiction of the permitting authority as required under section 507 of the Federal Clean Air Act; and

(q) Other activities required by operating permit regulations issued by the United States Environmental Protection Agency under the Federal Clean Air Act.

ii. Ecology Development and Oversight.

Development and oversight costs are those incurred by Ecology in developing and administering the state operating permit program and in overseeing the administration of the program by the delegated local authorities. Development and oversight costs are in Chapter 252, Laws of 1993 Section 6.2.b of this Regulation.

c. Workload Analysis.

i. The Agency will conduct an annual workload analysis of the previous years' work, to projecting resource requirements for the purpose of preparation for permit administration. The workload analysis will include resource requirements for both the direct and indirect costs of the permit administration activities in Section 10.08.A.1.b.i of this Regulation.

ii. Ecology will, for the two-year period corresponding to each biennium, identify the development and oversight activities that it will perform during that biennium. The eligible activities are those referenced in Section 10.08.A.1.b.ii of this Regulation.

d. Budget Development.

The Agency will annually prepare an operating permit program budget. The budget will be based on the resource requirements identified in an annual workload analysis and will take into account the projected fund balance at the start of the calendar year. The Agency will publish a draft budget for the following calendar year on or before May 31 and will provide opportunity for public comment in accordance with Chapter 173-401 WAC Operating Permit Regulation. The Agency will publish a final budget for the following calendar year on or before June 30.

e. Allocation Method.

i. Permit Administration Costs.

The Agency will allocate its permit administration costs and its share of Ecology's development and oversight costs among the permit program sources for which it acts as permitting authority, according to a three-tiered model based upon:

(a) The number of sources under its jurisdiction;

(b) The complexity of the sources under its jurisdiction, and

(c) The size of the sources under its jurisdiction, as measured by the quantity of each regulated pollutant emitted. The quantity of each regulated pollutant emitted by a source will be determined based on the annual emissions data during the most recent calendar year for which data is available. Each of the three tiers will be equally weighted.

ii. Ecology Development and Oversight Costs.

Ecology will allocate its development and oversight costs among all permitting authorities, including the Agency based upon the number of permit program sources under the jurisdiction of each permitting authority. If Ecology determines that it has incurred extraordinary costs in order to oversee a particular permitting authority and that those costs are

readily attributable to the particular permitting authority, Ecology may assess to that permitting authority such extraordinary costs.

f. Fee Schedule.

The Agency will issue annually a fee schedule reflecting the permit administration fee and Ecology's development and oversight fee to be paid by each permit program source under its jurisdiction. The fee schedule will be based on the information contained in the final source data statements for each year; the final source data statements will be issued after opportunity for petition and review has been afforded in accordance with Section 10.08.A.4 of this Regulation.

2. Fee Collection - Ecology and Benton Clean Air Agency.

a. Collection from Sources.

The Agency, as a delegated local authority, will collect the fees from the permit program sources under its jurisdiction.

i. Permit Administration Costs. The Agency will collect from permit program sources under its jurisdiction fees sufficient in the aggregate to cover its permit administration costs.

ii. Ecology Development and Oversight Costs. The Agency will collect from permit program sources under its jurisdiction fees sufficient in the aggregate to cover its share of Ecology's development and oversight costs.

b. Dedicated Account.

All receipts from fees collected by the Agency, as a delegated local authority, from permit program sources will be deposited in - dedicated account -. Expenditures from these dedicated accounts will be used only for the activities described in RCW 70.94.162.

3. Accountability.

a. Public Participation during Fee Determination Process.

The Agency will provide for public participation in the fee determination process described under Section 10.09.A of this Regulation which provision will include but not be limited to the following:

i. The Agency will provide opportunity for public review of and comment on:

- (a) Each annual workload analysis;
- (b) Each annual budget; and
- (c) Each annual fee schedule

ii. The Agency will submit to Ecology for publication in the Permit Register notice of issuance of its draft annual workload analysis, issuance of its draft annual budget and issuance of its draft annual fee schedule.

iii. The Agency will make available for public inspection and to those requesting opportunity for review copies of its draft:

- (a) Annual workload analysis on or before May 31;
- (b) Annual budget on or before May 31; and
- (c) Annual fee schedule on or before May 31.

iv. The Agency will provide a minimum of thirty (30) days for public comment on the draft annual workload analysis and draft annual budget. Such thirty-day period for comment will run from the date of publication of notice in the Permit Register as provided in this Section.

b. Tracking of Revenues, Time and Expenditures.

i. Revenues.

The Agency will track revenues on a source-specific basis.

ii. Time and Expenditures.

The Agency will track time and expenditures on the basis of functional categories as follows:

- (a) Application review and permit issuance;
- (b) Permit modification;
- (c) Permit maintenance;
- (d) Compliance and enforcement;
- (e) Business assistance;
- (f) Regulation and guidance development;
- (g) Management and training; and
- (h) Technical support.

iii. Use of Information Obtained from Tracking Revenues, Time and Expenditures.

The Agency will use the information obtained from tracking revenues, time and expenditures to modify its workload analysis during each calendar year's review provided for under Section 10.09.A.1.d of this Regulation.

iv. The information obtained from tracking revenues, time, and expenditures will not provide a basis for challenge to the amount of an individual source's fee.

c. Periodic Fiscal Audits, Reports and Performance Audits.

A system of regular, periodic fiscal audits, reports and performance audits will be conducted in order to evaluate Ecology's and the Agency's operating permit program administration, as follows:

i. Fiscal Audits.

The Agency will contract with the State Auditor to perform a standard fiscal audit of its operating permit program every other year.

ii. Annual Routine Performance Audits.

The Agency will be subject to annual routine performance audits, except that the routine audit will be incorporated into the extensive performance audit, conducted pursuant to Section 10.09.A.3.c.v of this Regulation in each year during which an extensive performance is conducted. Ecology will issue guidance regarding the content of the routine performance audits and will conduct the Agency audits.

iii. Annual Random Individual Permit Review.

One permit issued by the Agency will be subject to review in conjunction with the annual routine performance. The permit to be reviewed will be selected at random. Ecology will issue guidance regarding the content of the random individual permit review and will conduct the Agency's review.

iv. Periodic Extensive Performance Audits.

The Agency will be subject to extensive performance audits every five years. In addition, the Agency may be subject to an extensive performance audit more frequently under the conditions of Section 10.09.A.3.c.v of this Regulation. Ecology will issue guidance regarding the content of the extensive performance audits and will conduct the audits of this agency.

v. Finding of Inadequate Administration or Need for Further Evaluation.

If, in the process of conducting a fiscal audit, annual routine audit, or annual random individual permit review, the auditor or Ecology finds that the Agency is inadequately

administering the operating permit program or finds that further evaluation is immediately warranted, an extensive performance audit will be conducted, as provided in Section 10.09.A.3.c.iv of this Regulation.

vi. Annual Reports.

The Agency will prepare an annual report evaluating its operating permit program administration. Such report will include any findings of the auditor or Ecology resulting from the relevant fiscal audits, annual routine audits, annual random individual permit reviews or periodic extensive performance audits. The Agency will submit its report to its Board and to Ecology.

4. Administrative Dispute Resolution.

a. Preliminary Statement of Source Data.

The Agency will provide to the permit program sources under their respective jurisdictions a preliminary statement of emissions and other data from that source upon which the Agency intends to base its allocation determination under Section 10.09.A.1.e of this Regulation. Such preliminary statement will be provided to the permit program sources on or before September 30 of each year. Such preliminary statement will indicate the name, address and telephone number of the person or persons to whom the source or other individual may direct inquiries and/or petitions for review under Section 10.08.A.4.b of this Regulation regarding the accuracy of the data contained therein.

b. Petition for Review of Statement.

A permit program source or other individual under the jurisdiction of the Agency as a delegated local authority, may petition to review for accuracy the data contained in the preliminary source data statement provided for under Section 10.08.A.4.a of this Regulation. Such petition will be lodged on or before October 31 of each year. Such petition will be in writing, directed to the individual indicated on the statement of source data. Such petition will indicate clearly the data to be reviewed, the specific action that the source or petitioning individual is requesting be taken and may, if the source or petitioning individual desires, be accompanied by written documentation supporting the request for review. Such petition will, in addition, state the name, address and telephone number of the person or persons to whom the Agency may direct inquiries regarding the request. Upon receipt of such a petition, the Agency, as a delegated local authority, must issue its written response to the petitioner on or before November 30 of each year. Such response will state the conclusions of the review and the reasons therefore, and will contain a new preliminary source data statement, revised to reflect any changes necessitated by the Agency's response.

c. Final Source Data Statement.

The Agency will provide to the permit program sources under its jurisdiction a final statement of emissions and other data from that source upon which the Agency will base its allocation determination under Section 10.08.A.1 of this Regulation along with an invoice reflecting the fee billed to that source on or before January 20 (~~December 31~~) of each year.

5. Fee Payment and Penalties.

a. Fee Payment.

Each permit program source will pay a fee in the amount reflected in the invoice issued under Section 10.09.A.4.c of

this Regulation. Fees will be invoiced by January 20 of each year. Such fee will be due on or before February 28 of each year.

b. Late Payment of Fees.

The Agency will charge a penalty to a permit program source under its jurisdiction for late payment of all or part of its operating permit fee at the following rates:

i. Ten percent of the source's total assessed fee for payment received after the due date for fee payment but up to the first thirty days past the due date for fee payment;

ii. Fifteen percent of the source's total assessed fee for payment received between the thirty-first day and the sixtieth day past the due date for fee payment; and

iii. Twenty-five percent of the source's total assessed fee for payment received between the sixty-first day and the ninetieth day past the due date for fee payment.

c. Failure to Pay Fees.

The Agency will charge a penalty to a permit program source under its jurisdiction for failure to pay all or part of its operating permit fee and/or penalties thereon after ninety days past the due date for fee payment in an amount three times the source's total assessed fee.

d. Other Penalties.

The penalties authorized in Section 10.08.A.5.b and c of this Regulation are additional to and in no way prejudice the Agency's ability to exercise other civil and criminal remedies, including the authority to revoke a source's operating permit for failure to pay all or part of its operating permit fee.

e. Facility Closure.

Sources that permanently cease operations will be required to pay only a pro rata portion of the annual operating permit fee for the fiscal year in which they cease operations. The portion of the fee to be paid will be calculated by dividing the number of calendar days that have passed in the relevant calendar year at the time the source ceases operations by the total of 365 calendar days, and multiplying the fraction thus derived by the fee that the source would have paid for the relevant calendar year, had it not ceased operations.

f. Transfer in Ownership.

Transfer in ownership of a source will not affect that source's obligation to pay operating permit fees. Any liability for fee payment, including payment of late payment and other penalties will survive any transfer in ownership of a source.

6. Development and Oversight Remittance by Local Authorities to Ecology.

a. Ecology will provide to the Agency a statement of the share of Ecology's development and oversight costs for which it is responsible for collecting from sources under its jurisdiction on or before December 31 of each year.

b. The Agency will remit to Ecology one-half of the share of Ecology's development and oversight costs for which it is responsible for collecting from sources under its jurisdiction on or before March 31 of each year and will remit to Ecology the balance of its share of Ecology's development and oversight costs on or before June 30 of each year.

B. Air Operating Permit sources are not subject to fees under the Registration Program.

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

Reviser's note: The typographical error in the above material occurred in the copy filed by the Benton Clean Air Agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

WSR 17-10-001
PERMANENT RULES
HEALTH CARE AUTHORITY
(Washington Apple Health)

[Filed April 19, 2017, 3:47 p.m., effective May 20, 2017]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The agency is amending this rule to update its notification practices.

Citation of Existing Rules Affected by this Order:
Amending WAC 182-518-0030.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160.

Adopted under notice filed as WSR 17-06-047 on February 27, 2017.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Date Adopted: April 19, 2017.

Wendy Barcus
Rules Coordinator

AMENDATORY SECTION (Amending WSR 14-16-052, filed 7/29/14, effective 8/29/14)

WAC 182-518-0030 Washington apple health—Modified adjusted gross income (MAGI) notice requirements—Electronic notices. (1) For programs based on modified adjusted gross income (MAGI), you may choose to get notices by regular mail or in an electronic format through Washington Healthplanfinder.

(2) We send you letters (notices) ((to inform you)) about your eligibility for Washington apple health ((WAH)) programs as described in WAC 182-518-0005 through 182-518-0025.

((2) For programs based on modified adjusted gross income (MAGI), you have the right to choose to get WAH eligibility notices by regular mail, in an electronic format, or both.

- ~~(3) To receive electronic notices you must:~~
- ~~(a) Have an account with Washington Healthplanfinder. (There is no charge to create an account); and~~
- ~~(b) Provide us with the following information: A valid e-mail address, your name, and your application identification number.~~
- ~~(4) You may ask to receive WAH notices electronically by:~~
- ~~(a) Mailing, delivering, or giving us a written letter to the address listed on our web site;~~
- ~~(b) Sending a facsimile letter to us as directed on our web site;~~
- ~~(c) Calling the WAH customer service center at the number listed on our web site;~~
- ~~(d) Logging on to your Healthplanfinder account online and selecting the "I would prefer to receive written communications by e-mail" check box on the contact information page; or~~
- ~~(e) Calling the Healthplanfinder customer support center.~~
- ~~(5) When you have asked for electronic notification, we:~~
- ~~(a) Send the notice to your Healthplanfinder account no later than one business day after creating the notice.~~
- ~~(b) Send you an e-mail message to notify you when a new WAH notice has been sent electronically to your Healthplanfinder account.~~
- ~~(i) The e-mail message will not include the notice, information about the content of the notice, or other confidential information; and~~
- ~~(ii) You must log on to your Healthplanfinder account to get the notice.~~
- ~~(6) We will stop sending WAH notices electronically to you if you ask us. You must notify us if your e-mail address changes.)) (3) When you select electronic notifications, also referred to as "paperless," we:~~
- ~~(a) Confirm your selection by regular mail;~~
- ~~(b) Notify you by email when a new notice has posted to your account; and~~
- ~~(c) Consider the notice received by you as of the date on the notice as described in WAC 182-518-0005.~~
- ~~(4) To read the notice, you must log in to your Washington Healthplanfinder account, as email messages do not include the content of the notice or other confidential information.~~
- ~~(5) If an email message is returned as undeliverable, we send the message to you by regular mail no later than three business days after the date of the undeliverable email response.~~
- ~~(6) You may ask at any time to stop receiving electronic notices from us.~~

WSR 17-10-023
PERMANENT RULES
BUILDING CODE COUNCIL

[Filed April 25, 2017, 1:46 p.m., effective May 26, 2017]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The purpose of this filing is to correct an editorial error in chapter 51-54A WAC, to delete WAC 51-54A-

1030 which was overlooked during the adoption of the 2015 amendments to the Washington State Fire Code; this is done for consistency with chapter 51-50 WAC which is the governing code, and which had already eliminated the section in that code. WAC 51-54A-1030 is to be reserved.

Citation of Existing Rules Affected by this Order: Repealing WAC 51-54A-1030.

Statutory Authority for Adoption: Chapter 19.27 RCW.

Adopted under notice filed as WSR 17-05-030 on February 7, 2017.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: April 18, 2017.

Steve K. Simpson
Chair

AMENDATORY SECTION (Amending WSR 16-03-055, filed 1/16/16, effective 7/1/16)

WAC 51-54A-1030 (~~Emergency escape and rescue~~) Reserved.

~~((1030.1 General. In addition to the means of egress required by this chapter, provisions shall be made to emergency escape and rescue openings in Group R-2 occupancies in accordance with Tables 1006.3.2(1) and 1006.3.2(2) and Group R-3 occupancies. Basements and sleeping rooms below the fourth story above grade plane shall have at least one exterior emergency escape and rescue opening in accordance with this section. Where basements contain one or more sleeping rooms, emergency escape and rescue openings shall be required in each sleeping room, but shall not be required in adjoining areas of the basement. Such openings shall open directly into a public way or to a yard or court that opens to a public way.~~

- EXCEPTIONS:
1. Basements with a ceiling height of less than 80 inches (2032 mm) shall not be required to have emergency escape and rescue openings.
 2. Emergency escape and rescue openings are not required from basements or sleeping rooms that have an exit door or exit access door that opens directly into a public way or to a yard, court or exterior balcony that opens to a public way.
 3. Basements without habitable spaces and having not more than 200 square feet (18.6 m²) in floor area shall not be required to have emergency escape and rescue openings.

~~4. Within individual dwelling and sleeping units in Groups R-2 and R-3, where the building is equipped throughout with an automatic sprinkler system installed in accordance with Section 903.3.1.1, 903.3.1.2 or 903.3.1.3, sleeping rooms in basements shall not be required to have emergency escape and rescue openings provided that the basement has one of the following:~~

- a. ~~One means of egress and one emergency escape and rescue opening.~~
- b. ~~Two means of egress.~~)

**WSR 17-10-028
PERMANENT RULES
BUILDING CODE COUNCIL**

[Filed April 25, 2017, 4:36 p.m., effective May 26, 2017]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The purpose of this filing is to make editorial corrections to errors and omissions in chapter 51-54A WAC, the 2015 Washington State Fire Code. This is to ensure that local code enforcement and building officials, builders, and other interested parties have the correct code language for the 2015 Fire Code, as amended and adopted by the Washington state building code council.

Citation of Existing Rules Affected by this Order: Amending WAC 51-54A-007, 51-54A-0105, 51-54A-0405, 51-54A-0508, 51-54A-0605, 51-54A-0903, 51-54A-0907, 51-54A-8100, and 51-54A-8200.

Statutory Authority for Adoption: Chapter 19.27 RCW.

Other Authority: RCW 19.27.031.

Adopted under notice filed as WSR 17-03-100 on January 17, 2017.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 8, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: March 28, 2017.

Steve K. Simpson
Chair

AMENDATORY SECTION (Amending WSR 16-05-065, filed 2/12/16, effective 7/1/16)

WAC 51-54A-007 Exceptions. The exceptions and amendments to the International Fire Code contained in the provisions of chapter 19.27 RCW shall apply in case of conflict with any of the provisions of these rules.

Codes referenced which are not adopted through RCW 19.27.031 or chapter 19.27A RCW shall not apply unless specifically adopted by the authority having jurisdiction. The 2015 International Wildland Urban Interface Code is included in this code as Section ~~((8100))~~ 8200 with amendments found in Appendix Chapter N.

The provisions of this code do not apply to temporary growing structures used solely for the commercial production of horticultural plants including ornamental plants, flowers, vegetables, and fruits. "Temporary growing structure" means a structure that has the sides and roof covered with polyethylene, polyvinyl, or similar flexible synthetic material and is used to provide plants with either frost protection or increased heat retention. A temporary growing structure is not considered a building for purposes of this code.

The provisions of this code do not apply to the construction, alteration, or repair of temporary worker housing except as provided by rule adopted under chapter 70.114A RCW or chapter 37, Laws of 1998 (2SSB 6168). "Temporary worker housing" means a place, area, or piece of land where sleeping places or housing sites are provided by an employer for his or her employees or by another person, including a temporary worker housing operator, who is providing such accommodations for employees, for temporary, seasonal occupancy, and includes "labor camps" under RCW 70.54.110.

The manufacture, storage, handling, sale and use of fire-works shall be governed by chapter 70.77 RCW and by chapter 212-17 WAC and local ordinances consistent with chapter 212-17 WAC.

AMENDATORY SECTION (Amending WSR 16-03-055, filed 1/16/16, effective 7/1/16)

WAC 51-54A-0105 Permits.

SECTION 105 SCOPE AND GENERAL REQUIREMENTS

~~((105.1.1 Permits required. Any property owner or authorized agent who intends to conduct an operation or business, or install or modify systems and equipment, which is regulated by this code, or to cause any such work to be done shall first make application to the fire code official and obtain the required permit.))~~

105.6.4 Carbon dioxide systems. An operational permit is required for carbon dioxide systems having more than 100 pounds of carbon dioxide.

105.6.4.9 Marijuana extraction systems. An operational permit is required to use a marijuana/cannabis extraction system regulated under WAC 314-55-104.

105.7.19 Marijuana extraction systems. A construction permit is required to install a marijuana/cannabis extraction system regulated under ~~((WAC 244-55-104 [WAC 314-55-104]))~~ WAC 314-55-104.

105.7.20 Underground supply piping for automatic sprinkler system. A construction permit is required for the installation of the portion of the underground water supply piping, public or private, supplying a water-based fire protection system. The permit shall apply to all underground piping and appurtenances downstream of the first control valve on the

lateral piping or service line from the distribution main to one foot above finished floor of the facility with the fire protection system. Maintenance performed in accordance with this code is not considered to be a modification and does not require a permit.

- EXCEPTIONS:
1. When the underground piping is installed by the aboveground piping contractor.
 2. Underground piping serves a fire protection system installed in accordance with NFPA 13D.

AMENDATORY SECTION (Amending WSR 16-03-055, filed 1/16/16, effective 7/1/16)

WAC 51-54A-0405 Emergency evacuation drills.

405.1 General. Emergency drills complying with the provisions of this section shall be conducted at least annually in the occupancies listed in Section 405.2.1 or when required by the fire code official. Drills shall be designed in cooperation with the local authorities.

405.2 Frequency. Required emergency drills shall be held at the intervals specified in Table 405.2 or more frequently where necessary to familiarize all occupants with the drill procedure.

405.2.1 Group E occupancies. The occupancy shall conduct at a minimum the following drills during the year:

1. One drill using the school mapping information system.

EXCEPTION: Day cares not colocated on a school campus.

2. Three fire evacuation drills.
3. One shelter-in-place drill.
4. Additional drills shall be as required by RCW 28A.320.125.

**Table 405.2
Fire and Evacuation Drill Frequency and Participation**

Group or Occupancy	Frequency	Participation
Group A	Quarterly	Employees
Group B ^b	Annually	All Occupants
Group B ^{b,c} (Ambulatory Care Facilities)	Annually	Employees
Group B ^b (Clinic, outpatient)	Annually	Employees
Group E	Monthly ^{a,c}	All Occupants
Group F	Annually	Employees
Group I-1	Semiannually on each shift	All Occupants
Group I-2	Quarterly on each shift ^a	Employees
Group I-3	Quarterly on each shift ^a	Employees

Group or Occupancy	Frequency	Participation
Group I-4	Quarterly on each shift ^a	All Occupants
Group R-1	Quarterly on each shift	Employees
Group R-2 ^f	Quarterly on each shift	Employees
Group R-2 ^d	Four Annually	All Occupants
High-rise buildings	Annually	Employees

- ^a In severe climates, the fire code official shall have the authority to modify the emergency evacuation drill frequency.
- ^b Emergency evacuation drills are required in Group B buildings having an occupant load of 500 or more persons or more than 100 persons above or below the level of exit discharge.
- ^c Emergency evacuation drills are required in ambulatory care facilities in accordance with Section 403.3.
- ^d Emergency evacuation drills in Group R-2 college and university buildings shall be in accordance with Section 403.10.2.1. Other Group R-2 occupancies shall be in accordance with Section 403.10.2.2.
- ^e Day cares collocated on a Group E campus shall participate in emergency drills occurring on the campus.
- ^f Applicable to group homes licensed by the state of Washington. Emergency evacuation drills for assisted living facilities and residential treatment facilities licensed by the state of Washington are required to meet the requirements of Group I-1.

405.4 Time. Drills shall be held at unexpected times and under varying conditions to simulate the unusual conditions that occur in case of an emergency.

405.5 Recordkeeping. Records shall be maintained of required emergency evacuation drills and include the following information:

1. Identity of the person conducting the drill.
2. Date and time of the drill.
3. Notification method used.
4. Staff members on duty and participating.
5. Number of occupants participating.
6. Special conditions simulated.
7. Problems encountered and corrective actions taken.
8. Weather conditions when occupants were evacuated.
9. Time required to accomplish complete evacuation, or shelter-in-place.

405.6 Notification. Where required by the fire code official, prior notification of emergency evacuation drills shall be given to the fire code official.

405.7 Initiation. Emergency drills shall be initiated in accordance with Sections 405.7.1 through ~~((405.7.3))~~ 405.7.2.

405.7.1 Fire evacuation drills. Where a fire alarm system is provided, emergency evacuation drills shall be initiated by activating the fire alarm system. The fire alarm monitoring company shall be notified prior to the activation of the fire alarm system for drills proposed and again at the conclusion of the transmission and restoration of the fire alarm system to normal mode.

EXCEPTION: Drills conducted between the hours of 9:00 p.m. and 6:00 a.m., in assisted living facilities, group homes, and residential treatment facilities licensed by the state of Washington.

405.7.2 Shelter-in-place drills. Shelter-in-place drills shall be initiated by the shelter-in-place alert signal, generated by an alerting system in accordance with Section 907.5.2.

405.8 Accountability. As building occupants arrive at the assembly point, efforts shall be made to determine if all occupants have been successfully evacuated and/or have been accounted for in the shelter-in-place.

405.9 Recall and reentry. The recall signal initiation shall be manually operated and under the control of the person in charge of the premises or the official in charge of the incident. No one shall reenter the premises until authorized to do so by the official in charge.

AMENDATORY SECTION (Amending WSR 13-04-063, filed 2/1/13, effective 7/1/13)

WAC 51-54A-0508 Fire command center.

508.1.2 Separation. The fire command center shall be separated from the remainder of the building by not less than a 2-hour fire barrier constructed in accordance with Section 707 of the International Building Code or horizontal assembly constructed in accordance with Section ~~((7+2))~~ 711 of the International Building Code, or both.

AMENDATORY SECTION (Amending WSR 16-03-055, filed 1/16/16, effective 7/1/16)

WAC 51-54A-0605 Electrical equipment, wiring and hazards.

605.11 Solar photovoltaic power systems. Installation, modification, or alteration of solar photovoltaic power systems shall comply with this section. Due to the emerging technologies in the solar photovoltaic industry, it is understood fire code officials may need to amend prescriptive requirements of this section to meet the requirements for firefighter access and product installations. Section 104.9 Alternative materials and methods of this code shall be considered when approving the installation of solar photovoltaic power systems. Solar photovoltaic power systems shall be installed in accordance with Sections 605.11.1 through 605.11.2, the *International Building Code* and chapter 19.28 RCW.

~~((605.11.1 Access and pathways. Roof access, pathways, and spacing requirements shall be provided in accordance with Sections 605.11.1.1 through 605.11.1.3.3.~~

- EXCEPTIONS:
1. Detached, nonhabitable Group U structures including, but not limited to, parking shade structures, carports, solar trellises and similar structures.
 2. Roof access, pathways and spacing requirements need not be provided where the fire chief has determined that rooftop operations will not be employed.)

605.11.1.1 Roof access points. Roof access points shall be located in areas that do not require the placement of ground ladders over openings such as windows or doors, and located

at strong points of building construction in locations where the access point does not conflict with overhead obstructions such as tree limbs, wires or signs.

605.11.1.2 Solar photovoltaic systems for Group R-3 buildings. Solar photovoltaic systems for Group R-3 buildings shall comply with Sections 605.11.1.2.1 through 605.11.1.2.5.

EXCEPTIONS: 1. These requirements shall not apply to structures designed and constructed in accordance with the *International Residential Code* (1.1.1 Roof access points).
2. Residential dwellings with an approved automatic fire sprinkler system installed.
3. Residential dwellings with approved mechanical or passive ventilation systems.
4. Where the fire code official determines that the slope of the roof is too steep for emergency access.
5. Where the fire code official determines that vertical ventilation tactics will not be utilized.
6. These requirements shall not apply to roofs where the total combined area of the solar array does not exceed thirty-three percent as measured in plan view of the total roof area of the structure, where the solar array will measure 1,000 sq. ft. or less in area, and where a minimum eighteen inches unobstructed pathway shall be maintained along each side of any horizontal ridge.

605.11.1.2.1 Size of solar photovoltaic array.

1. Each photovoltaic array shall be limited to 150 feet (45,720 mm) by 150 feet (45,720 mm). Multiple arrays shall be separated by a 3-foot wide (914 mm) clear access pathway.

2. Panels/modules shall be located up to the roof ridge where an alternative ventilation method approved by the fire code official has determined vertical ventilation techniques will not be employed.

~~((605.11.1.2.2 Hip roof layouts. Panels and modules installed on Group R-3 buildings with hip roof layouts shall be located in a manner that provides a 3-foot wide (914 mm) clear access pathway from the eave to the ridge on each roof slope where panels and modules are located. The access pathway shall be at a location on the building capable of supporting the firefighters accessing the roof.~~

EXCEPTION: These requirements shall not apply to roofs with slopes of two units vertical in 12 units horizontal (2:12) or less.

605.11.1.2.3 Single ridge roofs. Panels and modules installed on Group R-3 buildings with a single ridge shall be located in a manner that provides two, 3-foot wide (914 mm) access pathways from the eave to the ridge on each roof slope where panels and modules are located.

EXCEPTION: This requirement shall not apply to roofs with slopes of two units vertical in 12 units horizontal (2:12) or less.

605.11.1.2.4 Roofs with hips and valleys. Panels and modules installed on Group R-3 buildings with roof hips and valleys shall not be located closer than 18 inches (457 mm) to a hip or a valley where panels/modules are to be placed on both sides of a hip or valley. Where panels are to be located on only one side of a hip or valley that is of equal length, the panels shall be permitted to be placed directly adjacent to the hip or valley.

EXCEPTION: These requirements shall not apply to roofs with slopes of two units vertical in 12 units horizontal (2:12) or less.))

605.11.1.2.5 Allowance for smoke ventilation operations. Panels and modules installed on Group R-3 buildings shall be located not less than 18 inches (457 mm) from the ridge in order to allow for fire department smoke ventilation operations.

EXCEPTION: Panels and modules shall be permitted to be located up to the roof ridge where an alternative ventilation method approved by the fire chief has been provided or where the fire chief has determined vertical ventilation techniques will not be employed.

~~((605.11.1.3 Other than Group R-3 buildings. Access to systems for buildings, other than those containing Group R-3 occupancies, shall be provided in accordance with Sections 605.11.1.3.1 through 605.11.1.3.3.~~

EXCEPTION: Where it is determined by the fire code official that the roof configuration is similar to that of a Group R-3 occupancy, the residential access and ventilation requirements in Sections 605.11.1.2.1 through 605.11.1.2.5 shall be permitted to be used.

~~605.11.1.3.1 Access. There shall be a minimum 6-foot wide (1829 mm) clear perimeter around the edges of the roof.~~

EXCEPTION: Where either axis of the building is 250 feet (76,200 mm) or less, the clear perimeter around the edges of the roof shall be permitted to be reduced to a minimum 4-foot wide (1290 mm).

~~605.11.1.3.2 Pathways. The solar installation shall be designed to provide designated pathways. The pathways shall meet the following requirements:~~

~~1. The pathway shall be over areas capable of supporting firefighters accessing the roof.~~

~~2. The centerline axis pathways shall be provided in both axes of the roof. Centerline axis pathways shall run where the roof structure is capable of supporting firefighters accessing the roof.~~

~~3. Pathways shall be a straight line not less than 4 feet (1290 mm) clear to roof standpipes or ventilation hatches.~~

~~4. Pathways shall provide not less than 4 feet (1290 mm) clear around roof access hatch with not less than one singular pathway not less than 4 feet (1290 mm) clear to a parapet or roof edge.~~

~~605.11.1.3.3 Smoke ventilation. The solar installation shall be designed to meet the following requirements:~~

~~1. Arrays shall be not greater than 150 feet (45,720 mm) by 150 feet (45,720 mm) in distance in either axis in order to create opportunities for fire department smoke ventilation operations.~~

~~2. Smoke ventilation options between array sections shall be one of the following:~~

~~2.1. A pathway 8 feet (2438 mm) or greater in width.~~

~~2.2. A 4-foot (1290 mm) or greater in width pathway and bordering roof skylights or gravity operated dropout smoke and heat vents on not less than one side.~~

~~2.3. A 4-foot (1290 mm) or greater in width pathway and bordering all sides of nongravity operated dropout smoke and heat vents.~~

2.4. A 4-foot (1290 mm) or greater in width pathway and bordering 4-foot by 8-foot (1290 mm by 2438 mm) "venting cutouts" every 20 feet (6096 mm) on alternating sides of the pathway.)

605.11.2 Ground-mounted photovoltaic arrays. Ground-mounted photovoltaic arrays shall comply with Section 605.11 and this section. Setback requirements shall not apply to ground-mounted, free-standing photovoltaic arrays.

AMENDATORY SECTION (Amending WSR 16-03-055, filed 1/16/16, effective 7/1/16)

WAC 51-54A-0903 Automatic sprinkler systems.

903.2.1.6 Assembly occupancies on roofs. Where an occupied roof has an assembly occupancy with an occupant load exceeding 100 for Group A-2, and 300 for other Group A occupancies, the building shall be equipped with an *automatic sprinkler system* in accordance with Section 903.3.1.1 or 903.3.1.2.

EXCEPTION: Open parking garages of Type I or Type II construction.

903.2.1.8 Nightclub. An automatic sprinkler system shall be provided throughout Group A-2 nightclubs as defined in this code.

903.2.3 Group E. An automatic sprinkler system shall be provided for fire areas containing Group E occupancies where the fire area has an occupant load of 51 or more, calculated in accordance with Table 1004.1.2.

EXCEPTIONS:

1. Portable school classrooms with an occupant load of 50 or less calculated in accordance with Table 1004.1.2, provided that the aggregate area of any cluster of portable classrooms does not exceed 6,000 square feet (557 m²); and clusters of portable school classrooms shall be separated as required by the building code; or
2. Portable school classrooms with an occupant load from 51 through 98, calculated in accordance with Table 1004.1.2, and provided with two means of direct independent exterior egress from each classroom in accordance with Chapter 10, and one exit from each classroom shall be accessible, provided that the aggregate area of any cluster of portable classrooms does not exceed 6,000 square feet (557 m²); and clusters of portable school classrooms shall be separated as required by the building code; or
3. Fire areas containing day care and preschool facilities with a total occupant load of 100 or less located at the level of exit discharge where every room in which care is provided has not fewer than one exit discharge door.

903.2.6 Group I. An automatic sprinkler system shall be provided throughout buildings with a Group I *fire area*.

EXCEPTIONS:

1. An *automatic sprinkler system* installed in accordance with Section 903.3.1.2 shall be permitted in Group I-1 Condition 1 facilities.
2. Where new construction or additions house less than sixteen persons receiving care, an automatic sprinkler system installed in accordance with Section 903.2.8.3 shall be permitted for Group I-1, Condition 2, assisted living facilities licensed under chapter 388-78A WAC and residential treatment facilities licensed under chapter 246-337 WAC.

903.2.6.1 Group I-4. An automatic sprinkler system shall be provided in fire areas containing Group I-4 occupancies where the fire area has an occupant load of 51 or more, calculated in accordance with Table 1004.1.2.

EXCEPTIONS:

1. An automatic sprinkler system is not required where Group I-4 day care facilities with a total occupant load of 100 or less, and located at the level of exit discharge and where every room where care is provided has not fewer than one exterior exit door.
2. In buildings where Group I-4 day care is ((provide) provided on levels other than the level of exit discharge, an automatic sprinkler system in accordance with Section 903.3.1.1 shall be installed on the entire floor where care is provided, all floors between the level of care and the level of exit discharge and all floors below the level of exit discharge other than areas classified as an open parking garage.

903.2.8 Group R. An automatic sprinkler system installed in accordance with Section 903.3 shall be provided throughout all buildings with a Group R fire area.

EXCEPTION:

Group R-1 if all of the following conditions apply:

1. The Group R fire area is no more than 500 square feet and is used for recreational use only.
2. The Group R fire area is on only one story.
3. The Group R fire area does not include a basement.
4. The Group R fire area is no closer than 30 feet from another structure.
5. Cooking is not allowed within the Group R fire area.
6. The Group R fire area has an occupant load of no more than 8.
7. A hand-held (portable) fire extinguisher is in every Group R fire area.

903.2.11.1.3 Basements. Where any portion of a basement is located more than 75 feet (22,860 mm) from openings required by Section 903.2.11.1, or where new walls, partitions or other similar obstructions are installed that increase the exit access travel distance to more than 75 feet, the basement shall be equipped throughout with an approved automatic sprinkler system.

903.2.11.7 Relocatable buildings within buildings. Relocatable buildings or structures located within a building with an approved fire sprinkler system shall be provided with fire sprinkler protection within the occupiable space of the building and the space underneath the relocatable building.

EXCEPTIONS:

1. Sprinkler protection is not required underneath the building when the space is separated from the adjacent space by construction resisting the passage of smoke and heat and combustible storage will not be located there.
2. If the building or structure does not have a roof or ceiling obstructing the overhead sprinklers.
3. Construction trailers and temporary offices used during new building construction prior to occupancy.
4. Movable shopping mall kiosks with a roof or canopy dimension of less than 4 feet on the smallest side.

903.3.5.3 Underground portions of fire protection system water supply piping. The installation or modification of an underground water main, public or private, supplying a water-based fire protection system shall be in accordance with NFPA 24 and chapter 18.160 RCW. Piping and appurte-

nances downstream of the first control valve on the lateral or service line from the distribution main to one-foot above finished floor shall be approved by the fire *code official*. Such underground piping shall be installed by a fire sprinkler system contractor licensed in accordance with chapter 18.160 RCW and holding either a Level U or a Level 3 license. For underground piping supplying systems installed in accordance with Section 903.3.1.2, a Level 2, 3, or U licensed contractor is acceptable.

EXCEPTION: Portions of underground piping supplying automatic sprinkler systems installed in accordance with NFPA 13D.

AMENDATORY SECTION (Amending WSR 16-03-055, filed 1/16/16, effective 7/1/16)

WAC 51-54A-0907 Fire alarm and detection systems.

907.2.3 Group E. A manual fire alarm system that initiates the occupant notification signal utilizing an emergency voice/alarm communication system meeting the requirements of Section 907.5.2.2 and installed in accordance with Section 907.6 shall be installed in Group E occupancies. When automatic sprinkler systems or smoke detectors are installed, such systems or detectors shall be connected to the building fire alarm system.

EXCEPTIONS:

1. A manual fire alarm system is not required in Group E occupancies with an occupant load of 50 or less.
2. Emergency voice/alarm communication systems meeting the requirements of Section 907.5.2.2 and installed in accordance with Section 907.6 shall not be required in Group E occupancies with occupant loads of 100 or less, provided that activation of the manual fire alarm system initiates an approved occupant notification signal in accordance with Section 907.5.
3. Manual fire alarm boxes are not required in Group E occupancies where all of the following apply:
 - 3.1 Interior corridors are protected by smoke detectors.
 - 3.2 Auditoriums, cafeterias, gymnasiums and similar areas are protected by heat detectors or other approved detection devices.
 - 3.3 Shops and laboratories involving dusts or vapors are protected by heat detectors or other approved detection devices.
4. Manual fire alarm boxes shall not be required in Group E occupancies where the building is equipped throughout with an approved automatic sprinkler system installed in accordance with Section 903.3.1.1, the emergency voice/alarm communication system will activate on sprinkler water flow and manual activation.

907.2.6 Group I. A manual fire alarm system that activates the occupant notification system shall be installed in Group I occupancies. An automatic smoke detection system that notifies the occupant notification system shall be provided in accordance with Sections 907.2.6.1, 907.2.6.2, 907.2.6.3.3 and 907.2.6.4.

EXCEPTIONS:

1. Manual fire alarm boxes in resident or patient sleeping areas of Group I-1 and I-2 occupancies shall not be required at exits if located at nurses' control stations or other constantly attended staff locations, provided such stations are visible and continually accessible and that travel distances required in Section 907.4.2 are not exceeded.
2. Occupant notification systems are not required to be activated where private mode signaling installed in accordance with NFPA 72 is approved by the fire code official.

907.2.6.1 Group I-1. An automatic smoke detection system shall be installed in *corridors*, waiting areas open to *corridors* and *habitable spaces* other than *sleeping units* and *kitchens*. The system shall be activated in accordance with Section 907.4.

EXCEPTIONS:

1. For Group I-1 Condition 1 occupancies, smoke detection in *habitable spaces* is not required where the facility is equipped throughout with an *automatic sprinkler system* installed in accordance with Section 903.3.1.1.
2. Smoke detection is not required for exterior balconies.

907.2.6.4 Group I-4 occupancies. A manual fire alarm system that initiates the occupant notification signal utilizing an emergency voice/alarm communication system meeting the requirements of Section 907.5.2.2 and installed in accordance with Section 907.6 shall be installed in Group I-4 occupancies. When automatic sprinkler systems or smoke detectors are installed, such systems or detectors shall be connected to the building fire alarm system.

EXCEPTIONS:

1. A manual fire alarm system is not required in Group I-4 occupancies with an occupant load of 50 or less.
2. Emergency voice alarm communication systems meeting the requirements of Section 907.5.2.2 and installed in accordance with Section 907.6 shall not be required in Group I-4 occupancies with occupant loads of 100 or less, provided that activation of the manual fire alarm system initiates an approved occupant notification signal in accordance with Section 907.5.

907.5.2.1.2 Maximum sound pressure. The maximum sound pressure level for audible alarm notification appliances shall be 110 dBA at the minimum hearing distance from the audible appliance. For systems operating in public mode, the maximum sound pressure level shall not exceed 30 dBA over the average ambient sound level. Where the average ambient noise is greater than 95 dBA, visible alarm notification appliances shall be provided in accordance with NFPA 72 and audible alarm notification appliances shall not be required.

907.10 NICET: National Institute for Certification in Engineering Technologies.

907.10.1 Scope. This section shall apply to new and existing fire alarm systems.

907.10.2 Design review: All construction documents shall be reviewed by a NICET III in fire alarms or a licensed professional engineer (PE) in Washington prior to being submitted for permitting. The reviewing professional shall submit a stamped, signed, and dated letter; or a verification method approved by the local authority having jurisdiction indicating the system has been reviewed and meets or exceeds the

design requirements of the state of Washington and the local jurisdiction (effective July 1, 2017).

907.10.3 Testing/maintenance: All inspection, testing, maintenance and programming not defined as "electrical construction trade" by chapter 19.28 RCW shall be completed by a NICET II in fire alarms (effective July 1, 2017).

NEW SECTION

WAC 51-54A-5307 Carbon dioxide (CO₂) systems.

5307.1 General. Carbon dioxide systems with more than 100 pounds (45.4 kg) of carbon dioxide shall comply with Sections 5307.2 through 5307.5.2.

AMENDATORY SECTION (Amending WSR 13-04-063, filed 2/1/13, effective 7/1/13)

WAC 51-54A-8100 ((Appendix K—Wildland-Urban Interface Code.)) Reserved.

~~((K101.5 Additions or alterations. Additions or alterations may be made to any building or structure without requiring the existing building or structure to comply with all of the requirements of this code, provided the addition or alteration conforms to that required for a new building or structure.~~

EXCEPTION: Provisions of this code that specifically apply to existing conditions are retroactive. See Sections 402.3, 601.1 and Appendix A.

~~Additions or alterations shall not cause the existing building or structure to become unsafe. An unsafe condition shall be deemed to have been created if an addition or alteration will cause the existing building or structure to become structurally unsafe or overloaded; will not provide adequate access in compliance with the provisions of this code or will obstruct existing exits or access; will create a fire hazard; will reduce required fire resistance or will otherwise create conditions dangerous to human life.~~

K108.3 Site plan. In addition to the requirements for plans in the International Building Code, the code official may require site plans which include topography, width and percent of grade of access roads, landscape and vegetation details, locations of structures or building envelopes, existing or proposed overhead utilities, occupancy classification of buildings, types of ignition resistant construction of buildings, struc-

tures and their appendages, roof classification of buildings, and site water supply systems. The code official is authorized to waive or modify the requirement for a site plan.

~~**K108.4 Vegetation management plans.** When required by the code official or when utilized by the permit applicant pursuant to Section 502, vegetation management plans shall be prepared and shall be submitted to the code official for review and approval as part of the plans required for a permit. See Appendix B.~~

~~**K108.7 Vicinity plan.** When required by the code official, the requirements for site plans shall include details regarding the vicinity within 300 feet (91,440 mm) of property lines, including other structures, slope, vegetation, fuel breaks, water supply systems and access roads.~~

~~**K402.1.1 Access.** New subdivisions, as determined by this jurisdiction, shall be provided with fire apparatus access roads in accordance with the International Fire Code.~~

~~**K402.1.2 Water supply.** New subdivisions, as determined by this jurisdiction, shall be provided with water supply in accordance with the International Fire Code.~~

~~**K402.2 Individual structures.** Individual structures shall comply with Sections 402.2.1 and 402.2.2.~~

~~**K402.2.1 Access.** Individual structures hereafter constructed or relocated into or within wildland-urban interface areas shall be provided with fire apparatus access in accordance with the International Fire Code.~~

~~**K402.2.2 Water supply.** Individual structures hereafter constructed or relocated into or within wildland-urban interface areas shall be provided with a conforming water supply in accordance with the International Fire Code.~~

- EXCEPTIONS:**
1. Structures constructed to meet the requirements for the class of ignition-resistant construction specified in Table K503.1 for a noneconforming water supply.
 2. Buildings containing only private garages, carports, sheds and agricultural buildings with a floor area of not more than 600 square feet (56 m²).

~~**K402.3 Existing conditions.** Existing address markers, roads and fire protection equipment shall be in accordance with the International Fire Code.~~

**Table K503.1
Ignition-Resistant Construction***

	Fire Hazard Severity					
	Moderate Hazard		High Hazard		Extreme Hazard	
	Water Supply ^b		Water Supply ^b		Water Supply ^b	
Defensible Space^a	Conforming	Noneconforming	Conforming	Noneconforming	Conforming	Noneconforming
Noneconforming	IR-2	IR-1	IR-1	IR-1 N.C.	IR-1 N.C.	Not Permitted
Conforming	IR-3	IR-2	IR-2	IR-1	IR-1	IR-1 N.C.
1.5 x Conforming	Not Required	IR-3	IR-3	IR-2	IR-2	IR-1

^aAccess shall be in accordance with Section 402.

^bWater supply shall be in accordance with Section 402.1.

IR-1—Ignition-resistant construction in accordance with Section 504.

IR-2—Ignition-resistant construction in accordance with Section 505.

IR-3—Ignition-resistant construction in accordance with Section 506.

N.C.— Exterior walls shall have a fire-resistance rating of not less than 1-hour and the exterior surfaces of such walls shall be noncombustible. Usage of log wall construction is allowed.

^e Conformance based on Section 603.

~~**K403 Access.** This section not adopted.~~

~~**K404 Water supply.** This section not adopted.~~

APPENDIX B—VEGETATION MANAGEMENT PLAN—THIS APPENDIX IS ADOPTED:

APPENDIX C—FIRE DANGER RATING SYSTEM—THIS APPENDIX IS ADOPTED:))

AMENDATORY SECTION (Amending WSR 16-03-055, filed 1/16/16, effective 7/1/16)

WAC 51-54A-8200 Appendix N—Wildland Urban Interface Code. ((Reserved.))

N101.5 Additions or alterations. Additions or alterations may be made to any building or structure without requiring the existing building or structure to comply with all of the requirements of this code, provided the addition or alteration conforms to that required for a new building or structure.

EXCEPTION: Provisions of this code that specifically apply to existing conditions are retroactive. See Sections 402.3, 601.1 and Appendix A.

Additions or alterations shall not cause the existing building or structure to become unsafe. An unsafe condition shall be deemed to have been created if an addition or alteration will cause the existing building or structure to become structurally unsafe or overloaded; will not provide adequate access in compliance with the provisions of this code or will obstruct existing exits or access; will create a fire hazard; will reduce required fire resistance or will otherwise create conditions dangerous to human life.

N108.3 Site plan. In addition to the requirements for plans in the International Building Code, the code official may require site plans which include topography, width and percent of grade of access roads, landscape and vegetation details, locations of structures or building envelopes, existing or proposed overhead utilities, occupancy classification of buildings, types of ignition resistant construction of buildings, struc-

tures and their appendages, roof classification of buildings, and site water supply systems. The code official is authorized to waive or modify the requirement for a site plan.

N108.4 Vegetation management plans. When required by the code official or when utilized by the permit applicant pursuant to Section 502, vegetation management plans shall be prepared and shall be submitted to the code official for review and approval as part of the plans required for a permit. See Appendix B.

N108.7 Vicinity plan. When required by the code official, the requirements for site plans shall include details regarding the vicinity within 300 feet (91,440 mm) of property lines, including other structures, slope, vegetation, fuel breaks, water supply systems and access roads.

N402.1.1 Access. New subdivisions, as determined by this jurisdiction, shall be provided with fire apparatus access roads in accordance with the International Fire Code.

N402.1.2 Water supply. New subdivisions, as determined by this jurisdiction, shall be provided with water supply in accordance with the International Fire Code.

N402.2 Individual structures. Individual structures shall comply with Sections 402.2.1 and 402.2.2.

N402.2.1 Access. Individual structures hereafter constructed or relocated into or within wildland-urban interface areas shall be provided with fire apparatus access in accordance with the International Fire Code.

N402.2.2 Water supply. Individual structures hereafter constructed or relocated into or within wildland-urban interface areas shall be provided with a conforming water supply in accordance with the International Fire Code.

- EXCEPTIONS:
- Structures constructed to meet the requirements for the class of ignition-resistant construction specified in Table N503.1 for a nonconforming water supply.
 - Buildings containing only private garages, carports, sheds and agricultural buildings with a floor area of not more than 600 square feet (56 m²).

N402.3 Existing conditions. Existing address markers, roads and fire protection equipment shall be in accordance with the International Fire Code.

**Table N503.1
Ignition-Resistant Construction^a**

	Fire Hazard Severity					
	Moderate Hazard		High Hazard		Extreme Hazard	
	Water Supply ^b		Water Supply ^b		Water Supply ^b	
Defensible Space^c	Conforming	Nonconforming	Conforming	Nonconforming	Conforming	Nonconforming
Nonconforming	IR 2	IR 1	IR 1	IR 1 N.C.	IR 1 N.C.	Not Permitted
Conforming	IR 3	IR 2	IR 2	IR 1	IR 1	IR 1 N.C.
1.5 x Conforming	Not Required	IR 3	IR 3	IR 2	IR 2	IR 1

^a Access shall be in accordance with Section 402.

^b Water supply shall be in accordance with Section 402.1.

IR 1 = Ignition-resistant construction in accordance with Section 504.

IR 2 = Ignition-resistant construction in accordance with Section 505.

IR 3 = Ignition-resistant construction in accordance with Section 506.

N.C. = Exterior walls shall have a fire-resistance rating of not less than 1-hour and the exterior surfaces of such walls shall be noncombustible. Usage of log wall construction is allowed.

^c Conformance based on Section 603.

N403 Access. This section not adopted.

N404 Water supply. This section not adopted.

APPENDIX B-VEGETATION MANAGEMENT PLAN - THIS APPENDIX IS ADOPTED.

APPENDIX C-FIRE DANGER RATING SYSTEM - THIS APPENDIX IS ADOPTED.

WSR 17-10-029

PERMANENT RULES

WASHINGTON STATE PATROL

[Filed April 26, 2017, 9:00 a.m., effective May 27, 2017]

Effective Date of Rule: Thirty-one days after filing.

Purpose: Changes are needed to chapter 204-91A WAC to provide clarity and consistency in terms used throughout the chapter and to cleanup existing language.

Citation of Existing Rules Affected by this Order: Amending WAC 204-91A-030, 204-91A-090, 204-91A-110, 204-91A-130, 204-91A-150, and 204-91A-180.

Statutory Authority for Adoption: RCW 46.55.115.

Adopted under notice filed as WSR 16-21-032 on October 11, 2016.

Changes Other than Editing from Proposed to Adopted Version: The following changes were made based on stakeholder comments:

- The language was changed in WAC 204-91A-180(17) to permit, rather than require, the patrol officer at the scene to verify the tow driver's identity by the driver's license.
- The term "obscene language" was removed from WAC 204-91A-180 (25)(d) and the term "customer" was replaced with "vehicle's owner, operator or the owner's authorized representative" to clarify that the rule prohibits conduct directed at persons involved in a WSP tow or impound, and not to all customers of the tow business.
- Language was added in WAC 204-91A-180(27) to clarify that "first name" means the name used on the individual's driver's license, or a nickname that the individual commonly uses and by which the individual is commonly known.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 6, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 6, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: April 25, 2017.

John R. Batiste
Chief

AMENDATORY SECTION (Amending WSR 09-09-118, filed 4/21/09, effective 5/22/09)

WAC 204-91A-030 Definitions. The following definitions will apply throughout this chapter:

(1) "Chief" means the chief of the Washington state patrol.

(2) "Department" means the Washington state department of licensing.

(3) "Designee" means a person designated by the chief of the Washington state patrol.

(4) "Director" means the director of the department of licensing.

(5) "District commander" means the commanding officer or designee of ~~((an))~~ a geographical area established by the Washington state patrol.

(6) "Emergent move" or "emergent movement" means a law enforcement directed movement of any vehicle by a tow truck, utilizing any safe means, for the purposes of clearing the roadway in the interest of safety and/or for the reduction of congestion. ~~((Emergent movement of any oversized or overweight vehicle(s) or combination of vehicles requiring a permit must only be made to the nearest safe location, until such time as a permit is acquired or until the load can be made legal by reducing the nonfixed load. Emergent movement of a vehicle is limited to a distance of five miles, unless an exception is granted by a patrol supervisor based on special circumstances.))~~

(7) "Highway" ~~((means the entire width between the boundary lines of every highway publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel))~~ has the same meaning as provided in chapter 46.04 RCW.

(8) "Initial tow" means services provided including, but not limited to, collisions, incidents, disableds, and impound requests, as a result of an original call, on a particular vehicle, that the tow operator receives from the patrol using a copy of a current rotational call list for the particular zone.

(9) "Inspection certificate" means an inspection report and a tow inspection summary report completed by an inspector.

(10) "Inspector" means a commissioned officer of the Washington state patrol who has been designated as a tow truck inspector by the patrol.

~~((+10))~~ (11) "Letter of appointment" means a ((letter)) document issued by the Washington state patrol and signed by the patrol and registered tow truck operator that authorizes ((a registered)) the tow ((truck)) operator to tow and store vehicles for the patrol on a rotational or contractual basis in a specified area. The letter of appointment contains a rotational tow rate cap agreement that specifies the maximum tow rates that may be charged for services provided as a result of patrol originated calls.

~~((+11))~~ "Letter of contractual agreement" means the document, attached to the letter of appointment, that specifies the

~~maximum tow rates that may be charged for services provided as a result of state patrol originated calls.)~~

(12) "Owner/operator" means an owner of a towing business who is active in the general management of the ~~((towing))~~ business.

(13) "Patrol" means the Washington state patrol as defined in RCW 43.43.010.

(14) "Place of business" means a building located in an assigned tow zone that the registered tow truck operator occupies, either continuously or at regular times, where tow business books and records are kept and tow business is transacted.

(15) "Registered tow truck operator" or "tow operator" means a person who engages in the impounding, transporting, or storage of unauthorized vehicles, or in the disposal of abandoned vehicles.

(16) "Secondary tow" means towing services from ~~((an))~~ a tow operator's storage facility or place of business to another location designated by the owner/agent of a vehicle, when the initial towing services were the result of a call from the patrol.

(17) "Section" means the section designated by the chief of the Washington state patrol to coordinate the tow truck inspection program, maintain tow truck files, and issue letters of appointment.

(18) "Section commander" means the commanding officer or designee of the section.

(19) "Special event" means any event that causes an unusually large number of impounded vehicles and/or tow calls in a short period of time and which is declared as such by the district commander or designee.

~~((19))~~ (20) "Special event storage area" means an area used for temporarily storing vehicles impounded/towed from special events. Approval for such areas must be obtained from the department, the patrol, and appropriate city and county jurisdictions.

~~((20))~~ (21) "State recognized holiday" means a legal holiday as outlined under RCW 1.16.050.

~~((21))~~ (22) "Storage area" means the approved yard and buildings (primary and secondary) where stored vehicles are kept. The storage areas and fencing must comply with the requirements established by the department and local zoning rules and regulations. Both primary and secondary storage areas must be physically located within the tow zone assigned to the tow operator under a letter of appointment.

(23) "Tow truck" ~~((means a motor vehicle that is equipped for and used in the business of towing or otherwise transporting other vehicles with specific equipment approved by the patrol.~~

~~((22))~~ has the same meaning as provided in RCW 46.55.-010.

(24) "Tow truck number" ~~((means the number issued by the department to tow trucks used by a registered tow truck operator in the state of Washington.~~

~~((23))~~ has the same meaning as provided in RCW 46.55.-010.

(25) "Tow truck permit" ~~((means the permit issued annually by the department that has the classification of service that the tow truck may provide stamped upon it.~~

~~((24))~~ has the same meaning as provided in RCW 46.55.-010.

(26) "Tow truck service" means the towing, moving, transporting, or impounding of vehicles, together with personal effects and cargo, by a registered tow truck operator utilizing equipment approved by the patrol.

~~((25))~~ (27) "Tow zone" means that specific geographical area designated by the district commander for the removal of vehicles as defined in Title 46 RCW and this chapter.

~~((26) "Vehicle storage area" means the approved yard and buildings (primary and secondary) where stored vehicles are kept. The storage areas and fencing must comply with the requirements established by the department and all local zoning rules and regulations. Both primary and secondary storage areas must be physically located within the tow zone assigned to the operator.)~~

AMENDATORY SECTION (Amending WSR 09-09-118, filed 4/21/09, effective 5/22/09)

WAC 204-91A-090 Hearing procedure. Hearings under this chapter will be pursuant to chapters 34.05 RCW(~~(5 446-08))~~) and 10-08 WAC, as supplemented by this section.

(1) The presiding officer will conduct the hearing and any prehearing conference(s).

(2) The burden of proof in any hearing will be on the applicant seeking a letter of appointment, or the person or agency seeking the suspension or revocation of a letter of appointment, or other action by the chief or designee. The chief or designee, after having heard and considered all pertinent evidence, or if the hearing is conducted by an administrative law judge, after having considered a record of a hearing conducted by an administrative law judge duly appointed pursuant to chapter 34.12 RCW, will make written findings of facts and conclusions based on evidence presented.

(3) Oral proceedings must be recorded by a method chosen by the patrol and such recording will become part of the hearing record.

(4) During an adjudicative proceeding, no person may appear in a representative capacity other than the following:

(a) Attorneys at law duly qualified and entitled to practice before the supreme court of the state of Washington;

(b) Attorneys at law duly qualified and entitled to practice before the highest court of record of any other state, if the attorneys at law of the state of Washington are permitted to appear in a representative capacity before administrative agencies of such other state, and if not otherwise prohibited by our state law; and/or

(c) A bona fide officer, partner, sole proprietor, or authorized manager of a sole proprietorship, partnership, or corporation who appears for such sole proprietorship, partnership, or corporation.

(5) The presiding officer will decide whether to permit the taking of depositions, the requesting of admissions, and all other procedures authorized by rules 26 through 36 of the superior court civil rules. The presiding officer will condition use of discovery on a showing of necessity and unavailability by other means. In exercising such discretion, the presiding officer will consider:

(a) Whether all parties are represented by counsel;

(b) Whether undue expense or delay in bringing the case to hearing will result;

(c) Whether the discovery will promote the orderly and prompt conduct of the proceeding; and

(d) Whether the interests of justice will be promoted.

AMENDATORY SECTION (Amending WSR 09-09-118, filed 4/21/09, effective 5/22/09)

WAC 204-91A-110 Complaints. (1) ~~((All law enforcement or local licensing agencies that receive))~~ Complaints received by the patrol involving registered tow truck operators ~~((must forward complaints))~~ will be forwarded to the department, along with ~~((#))~~ the results from ~~((the))~~ any complaint investigation~~((s))~~ and other supporting documents~~((, to the department)).~~

(2) The patrol will investigate all complaints involving deficient equipment ~~((deficiencies))~~ of a registered tow truck operator.

(3) The patrol will investigate all complaints that a letter of appointment holder has failed to comply or no longer complies with any requirement or provision of law or this chapter.

(4) Complaints investigated by the patrol will be reviewed by the chief or designee before ~~((forwarding))~~ being forwarded to the department.

~~((4))~~ (5) A complete copy of all complaints investigated by the patrol will be kept on file in accordance with applicable records retention requirements.

AMENDATORY SECTION (Amending WSR 09-09-118, filed 4/21/09, effective 5/22/09)

WAC 204-91A-130 Personal property handling procedures. All personal belongings and contents in the vehicle that are not permanently attached must be kept intact, and must be returned to the vehicle's owner or agent during normal business hours upon request and presentation of a driver's license or other sufficient identification. The tow operator must without charge and upon demand, release personal property not being held for evidence purposes by the impounding agency, to the vehicle's owner or agent during normal business hours of 8:00 a.m. to 5:00 p.m. except for weekends and state recognized holidays. Release procedures must also follow guidelines as set forth in chapters 308-61 WAC and 46.55 RCW.

The vehicle contents, less items listed in WAC and RCW, and personal property not picked up prior to the vehicle going to auction must remain with the vehicle and may not be kept by the tow operator or sold at auction to fulfill a lien against the vehicle.

(1) The items of personal property that the state patrol will not accept in response to RCW 46.55.090 include but are not limited to the following:

- (a) Tire chains;
- (b) Spare tire and wheels;
- (c) Used auto parts and accessories;
- (d) Seat covers;
- (e) Fuel containers;
- (f) Jacks and lug wrenches;
- (g) Radios, stereos, and other items attached to the vehicle by bolts, screws, or some other manner that incorporates

them to the vehicle. These items must remain with the vehicle;

(h) Refuse, trash, garbage, open or empty alcohol containers and perishable items;

(i) Soiled or mildewed items, including clothing, shoes, blankets, and tarps having no actual value;

(j) Miscellaneous unofficial papers and other items having no actual value.

(2) Items that must be turned over to the patrol within forty-eight hours and inventoried include, but are not limited to:

- (a) Money;
- (b) Wallets and purses;
- (c) Bank and check books;
- (d) Bank and credit cards;
- (e) Official identification cards, operator's license and passports;
- (f) Jewelry;
- (g) Firearms and any type weapon;
- (h) Contraband including controlled substances;
- (i) Stocks, bonds, money orders, bank certificates, travelers checks, postage stamps, and food stamps;
- (j) Other items of obvious value.

(3) The tow operator must not remove or damage any vehicle parts permanently affixed to the vehicle, i.e., trunk locks or door locks. The tow operator must allow the vehicle's legal or registered owner or ~~((driver of a vehicle))~~ the owner's authorized representative to remove specialized hand controls, provided that their removal does not damage the vehicle.

(4) If a vehicle is equipped with an ignition interlock system as outlined in RCW 46.20.720, the tow operator must contact the ignition interlock company through the phone number provided on the ignition interlock label within forty-eight hours to inform them that the vehicle has been impounded. The ignition interlock system must be removed by a qualified technician and released to the installing company, at no charge and upon proof of ownership, prior to the auction of the vehicle. The removal of the ignition interlock system must not render the vehicle inoperable.

(5) After the certified sale letter has been mailed, the tow operator may dispose of any perishable items or items that may rot, decay, or otherwise cause substantial odor within the interior of the vehicle.

AMENDATORY SECTION (Amending WSR 09-09-118, filed 4/21/09, effective 5/22/09)

WAC 204-91A-150 Towing procedure. Officers of the patrol will obtain towing services to remove damaged or disabled vehicles from the highway or to remove vehicles from the highway with the following limitations:

(1) If the vehicle does not constitute an obstruction to traffic and the ~~((owner/operator of the vehicle))~~ vehicle's owner or operator is present at the scene and appears competent to determine disposition of the vehicle, the ~~((owner/operator may, upon request, make his own))~~ vehicle's owner or operator may make the arrangements for removal. This does not affect rotational positions.

(2) If the vehicle is to be removed from the scene, the ~~((owner/operator of the vehicle))~~ vehicle's owner or operator may make a specific request for a particular tow operator. The request will be honored by the officer of the patrol if the requested tow operator is reasonably available and the request is otherwise reasonable in view of the circumstances at the scene. This does not affect rotational positions.

(3) When the ~~((owner/operator of the vehicle))~~ vehicle's owner or operator makes no specific request, or ~~((when the owner/operator))~~ is incapacitated or ~~((is))~~ unavailable, the officer of the patrol will, when practicable, obtain towing services by notifying the radio communications center and requesting tow service at that location.

(4) The chief or designee will specify that tow services obtained by the patrol will be on a contractual, rotational, or other basis in specific geographical areas in the state.

(5) For the purposes of rotational or contractual tow requests, an approved tow truck must be used only in the tow zone designated by the district commander. The patrol may, when tow service is not reasonably available within ~~((a))~~ the given zone, obtain service from an adjacent zone.

(6) The patrol may ~~((adopt rules that will))~~ allow approved towing firms to establish their own central dispatch centers to dispatch tow trucks at the request of the patrol in selected geographical areas of the state.

(a) These dispatch centers will be the responsibility of those member towing firms that utilize this type of service, and must dispatch the specific company requested.

(b) The patrol communications center will advise the towing dispatch center of the approximate location, number of tow trucks needed, number of occupants, make, model and color of the vehicle, if available, and the reason for the call. The towing dispatch center will be responsible for dispatching the participating firm's tow trucks.

(c) ~~((Permanent))~~ Records of all tow trucks dispatched at the request of the patrol ~~((will))~~ must be maintained by the towing dispatch center for a period of three years.

(7) Tow operators responding to calls from the patrol must be capable of transporting one occupant. In those instances where the occupant is argumentative, disabled, or otherwise incapable of riding in a tow truck, the patrol will provide or obtain alternative transportation.

(8) Emergent movement of any oversized or overweight vehicle or combination of vehicles requiring a permit must only be made to the nearest safe location, until such time as a permit is acquired or until the load can be made legal by reducing the nonfixed load. Emergent movement of a vehicle is limited to a distance of five miles, unless an exception is granted by a patrol supervisor based on special circumstances.

AMENDATORY SECTION (Amending WSR 13-18-065, filed 9/3/13, effective 10/4/13)

WAC 204-91A-180 Additional ~~((vehicle towing/operator))~~ towing and tow operator qualifications, restrictions, and requirements. In addition to the requirements contained in WAC 204-91A-170, registered tow truck operators appointed pursuant to this chapter must conform to all

laws and administrative rules pertaining to the tow industry and must observe the following practices and procedures:

(1) When called by the patrol during normal business hours, the tow ~~((truck))~~ operator must dispatch a tow truck, from within the assigned zone within five minutes after receiving the call. Tow trucks must be registered to and belong to the particular tow business that is called and assigned only to that tow zone. If an officer at the scene deems it necessary, the officer may authorize additional assistance from a registered tow ~~((truck))~~ operator outside of the tow zone.

(2) When called by the patrol after normal business hours, the tow ~~((truck))~~ operator must dispatch a tow truck from within the assigned zone within fifteen minutes after receiving the call.

(3) The tow truck that is dispatched must arrive at the stated location within a reasonable time considering distance, traffic, and weather conditions.

(4) If for any reason a tow operator is unable to dispatch a tow truck within the stated time or if the dispatched truck will be delayed for any reason, the tow operator must advise the patrol stating the reason and estimated time of arrival. In the event the tow truck fails to arrive at the scene within a reasonable time, the patrol will contact another tow operator to respond to the scene and will cancel the original tow.

(5) A tow operator on rotation who is unable to dispatch or arrive within the times stated in subsections (1), (2), (3), and (4) of this section will forfeit the tow operator's turn and be placed at the bottom of the rotation list as if the tow operator had responded.

(6) ~~((Consistent))~~ Repeated refusal or failure of the appointee to respond to calls from the patrol for towing services or to provide the requested services may result in the suspension or revocation of the tow operator's letter of appointment.

(7) If the tow operator will be unavailable for twenty-four hours or more to respond to rotational calls with a class "A," "B," or "C" tow truck, the tow operator must advise the appropriate patrol office ~~((when the tow company is temporarily unavailable to respond to rotational calls with a class "A," "B," or "C" tow truck))~~. Unavailability may occur due to conditions including, but not limited to, other tow truck commitments, tow truck disabled and/or under repair, unforeseen driver shortage due to illness. ~~((The period of unavailability may last less than an hour or much longer.))~~ The tow operator ~~((will))~~ must give the reason for unavailability and ~~((approximately))~~ the approximate date and time when the company will be available to respond to calls.

The tow company will be removed from the rotational list and will not be called until the tow operator advises the patrol that the company is once again able to respond to calls with an "A," "B," or "C" class truck. In all such cases, the tow company will resume its normal position on the rotational list without regard to any missed calls or its position prior to being unavailable.

(8) The tow operator must advise the patrol whenever a private call is received for a tow with circumstances that indicate that the tow is for a vehicle that has been involved in a collision, incident, or equipment breakdown on the public roadway. The tow operator also must advise the patrol of all

private calls to motor vehicle collisions on private property resulting in bodily injury or death.

(9) The tow operator must notify the patrol before moving any vehicle involved in a collision on a public highway under the jurisdiction of the patrol as defined in the motor vehicle code, Title 46 RCW, or where it appears that the driver of the vehicle to be moved is under the influence of intoxicants or drugs, or is otherwise incapacitated.

(10) Other than a service patrol established and funded by the department of transportation, a tow operator must not solicit tow or roadside services by patrolling the public roadways searching for disabled vehicles or vehicles involved in a traffic collision.

(11) When the patrol is in charge of a collision scene or other such incident, a tow operator must not respond to such scene unless his services have been specifically requested by the patrol, the ~~((driver/owner, or his agent))~~ vehicle's owner or operator, or the owner's authorized representative.

(12) The tow operator must be available, or will ensure that specific employees are available, twenty-four hours a day for the purpose of receiving calls or arranging for the release of vehicles. Business hours will be posted conspicuously at the tow operator's place of business so they can be seen during business hours and nonbusiness hours. A copy ~~((will))~~ must also be sent to the ~~((section and patrol district commander))~~ inspector of the district in which the tow operator does business. Changes of business hours ~~((will))~~ must be sent to the department ~~((, the section, and the patrol district commander))~~ and the inspector ten days before their effective date.

(13) The tow operator must post a current copy of tow and storage rates, on a form approved by the department and the patrol, in the following locations:

(a) At the entrance to the place of business, in a conspicuous location, plainly visible and capable of being read by the public, whether the business is open or closed. If, in order to meet this requirement, the rate sheets must be placed in a location, exposed to the elements, they must be protected so as to remain legible.

(b) Inside the business location, where business is commonly transacted. The rate sheets must be posted in such manner as to be clearly and plainly visible and read at all times by customers of the business.

(c) A copy of the current rates will be sent to the department, the section, and the patrol district commander of the district in which the tow operator has applied for a letter of appointment. Notice of any change(s) in service rates will be forwarded to the department, the section, and the district commander of the area ten days before the effective date of the changes. Charges made for towing services arising from calls initiated by the patrol must be consistent with current posted towing rates and must be based only upon services listed on the prescribed form.

(d) In the event that ~~((an))~~ a tow operator has only a class "B" truck and utilizes it for class "A" and "B" type tows, the tow operator must file a rate sheet that specifies the rates charged for the different types of tows.

(e) Whenever any tow operator utilizes a larger truck than the towed vehicle warrants, the tow operator must

charge fees based on the size of the towed vehicle not the size of the truck used.

(14) Charges made for towing services arising from calls initiated by the patrol must not exceed the maximum rates established by the chief.

(15) Unless other arrangements are made with commissioned patrol personnel at the scene, all impounded vehicles must be taken to the tow operators nearest approved storage location within the tow operator's assigned tow zone.

(16) The tow operator will maintain, for three years, records on towed and released vehicles which were towed at the request of the patrol. Such records will be available for inspection by the patrol during normal business hours at the tow operator's place of business. Records will include, but not be limited to:

(a) An itemized receipt of all charges for the services provided.

(b) A tow impound record inventory or copy thereof made out by the trooper at the scene of the tow and signed by the tow operator.

(c) All other records required by the department.

(17) The first and last name of the ~~((registered))~~ tow truck ~~((operator))~~ driver will be placed on the tow impound inventory record made out by the patrol officer at the scene ~~((upon verification of))~~ and the officer may verify their driver's license; except that the signature may be provided on existing forms with form number 3000-110-076 (R 7/11) until current stock is depleted.

(18) Tow operators ~~((will))~~ must obtain and maintain a current registration ~~((as a licensed tow truck operator pursuant to))~~ certificate as required by RCW 46.55.020.

(19) Tow operators must perform towing tasks competently. The standard of competence will be that quality of work which is accepted as efficient and effective within the towing industry. The tow operator must ensure tow truck drivers responding to calls initiated by the patrol have completed a minimum of one four-hour tow truck driver training course every five years. The tow operator must keep a file documenting training.

(20) No tow operator, employee, or agent will misappropriate, wrongfully convert to his/her own use, or abuse property belonging to another and entrusted to his/her care or storage.

(21) Tow ~~((truck))~~ operators must use emergency lights to warn other motorists only when at the scene of collisions, disabled vehicles, and/or recoveries. Such lighting must not be used when traveling to or from the scene.

(22) Tow ~~((truck))~~ operators are required to clean collision/incident scenes of all vehicle glass, debris, and vehicle liquid spills of one gallon or less.

(23) Specific operating restrictions and/or requirements, by truck class, are as follows:

(a) The standard air brake release tools (caging stud assemblies) required to be carried in the class "B," "B-2," and "C" trucks must be used, whenever necessary, to preserve potential evidence involving brake equipment or adjustment settings. When ~~((an))~~ a tow operator is attempting to move a vehicle equipped with locked spring parking brakes that cannot be released by external air supply, the caging assemblies must be used to release the brake tension. Under no circum-

stances will the towed vehicle's brake assemblies or adjustments be moved or disturbed in any way that will prevent later determination of the precollision or incident settings.

(b) Class "B" or "B-2" trucks in excess of twenty-three thousand pounds gross vehicle weight rating need not carry dollies when towing or recovering heavy vehicles.

(24) Whenever a "special event or overflow" storage lot is approved by the department, the patrol and appropriate city/county jurisdictions, the following must apply:

(a) The tow operator must maintain personnel at the lot twenty-four hours per day for security and vehicle and/or personal property release. If necessary, reimbursement for such labor must be part of the contract for the "special event" if appropriate or by amended storage rates with a waiver of the ten-day rate change notice requirement approved by the department and the patrol.

(b) At the conclusion of a "special event or overflow" situation, all vehicles not reclaimed by the vehicle's owner or the owner's authorized representative must be towed to the tow operator's regular storage facility and processed in the normal fashion. No additional fee must be charged for towing the vehicle from the overflow lot to the regular storage facility.

(25) All work performed by the tow operator and/or employee must be in the most professional and expeditious manner. Tow operators and employees must refrain from any unprofessional actions while towing for or conducting towing business at the request of the patrol. The actions include, but are not limited to, any of the following:

(a) Lack of service, selective service, or refusal to provide service which the tow operator should be capable of performing;

(b) Exhibiting any signs of either alcohol, drug use, or both;

(c) Displaying any objects, logos, slogans, or graphic material within the view of the public that contains any form of pornography, profanity, or prejudice toward any person or group of persons; and

(d) Directing toward a vehicle's owner, operator or the owner's authorized representative any profanity or slurs based on the person's culture, race, gender or sexual preference.

(26) Tow operators must, when required by the patrol or the department, cause to be displayed on each approved truck, decals indicating truck class, patrol district, and/or assigned tow zone.

(27) When responding to a patrol call, tow truck (~~(operators)~~) driver must wear clothing identifying the company and the driver's first name. The driver's first name is the first name used on the person's driver's license or a nickname that the person commonly uses and by which the person is commonly known.

(28) Tow truck (~~(operators)~~) drivers performing recovery, impounding, or towing must wear work vests of highly visible materials, or equivalent distinguishing apparel when outside of the towing vehicle as outlined in WAC 296-155-200(5) and Code of Federal Regulations, Title 23 Part 634.3.

(29) Tow (~~(truck)~~) operators must not display any sign, shield, marking, accessory, or insignia on uniforms or vehicles indicating the equipment or vehicle marking are similar

to or belong to any public law enforcement agency. Tow (~~(truck)~~) operators must not engage in any advertisement indicating an official connection with the patrol or other law enforcement agency.

WSR 17-10-031

PERMANENT RULES

WASHINGTON STATE PATROL

[Filed April 26, 2017, 9:05 a.m., effective May 27, 2017]

Effective Date of Rule: Thirty-one days after filing.

Purpose: To update and provide clarity and constancy in terms used throughout chapter 212-80 WAC and cleanup existing language.

Citation of Existing Rules Affected by this Order: Amending WAC 212-80-018 and 212-80-093.

Statutory Authority for Adoption: RCW 18.270.900 and 18.160.030.

Adopted under notice filed as WSR 16-21-056 on October 13, 2016.

Changes Other than Editing from Proposed to Adopted Version: The following changes were made based on stakeholder written statements and verbal comments.

- Changed the work performed under "journey-level sprinkler fitter certification" in WAC 212-80-018 (2)(c)(i) to include the different types of materials a sprinkler fitter would work. Also added language to provide the latitude for work done inside and outside of a building on a fire sprinkler system.
- Changed the wording that the type of sprinkler fitter supervising a "trainee-level sprinkler fitter" in WAC 212-80-018 (2)(c)(iii) is certified to level of the work being performed by the trainee (compared to services being provided).
- Added clarifying language to "For journey-level sprinkler fitter certification" in WAC 212-80-093 (1)(f)(ii). Adding "required eight thousand hours of" is needed. Only three thousand of the total eight thousand hours can come from residential installation.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 2, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 2, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: April 25, 2017.

John R. Batiste
Chief

AMENDATORY SECTION (Amending WSR 14-03-019, filed 1/7/14, effective 2/7/14)

WAC 212-80-018 License and certification requirements. (1) **Fire protection sprinkler contractors**, only a licensed contractor, who has at least one certificate holder on staff certified to license level consistent with the contractor's license, by the director, can bid, offer to bid, contract, or perform the designing, installation, inspection, testing, maintenance, or repair of a NFPA fire protection sprinkler system or any part of such a system based on the level of the contractor license. The following levels will apply to contractor licenses issued by the director:

(a) **Level 1 contractor license** - ~~((NFPA 13D, and underground work (NFPA 24) or inspection, testing and maintenance (NFPA 25) for))~~ Residential structures consistent with the definitions found within NFPA 13D.

(b) **Level 2 contractor license** - ~~((NFPA 13D or NFPA 13R and underground work (NFPA 24) or inspection, testing and maintenance (NFPA 25) for NFPA 13D or NFPA 13R.))~~

Residential structures consistent with the definitions found within NFPA 13D, NFPA 13R, and NFPA 25. NFPA 24 is applicable only when the water main supplying the fire sprinkler system is equal to or greater than four inches in size.

(c) **Level 3 contractor license** - ~~((NFPA 13D, NFPA 13R, NFPA 13 systems, or underground work (NFPA 24) or inspection, testing and maintenance (NFPA 25).))~~ Includes work defined by Levels 1 and 2. This license is applicable to structures and fire protection sprinkler systems defined in NFPA 13, NFPA 24, and NFPA 25.

(d) **Level U contractor license** - Specialized license for underground work (NFPA 24) only.

(e) **Level I&T (inspection and testing) contractor license** - Specialized license for inspection and testing work (NFPA 25). This license level allows for inspection or testing of a ~~((NFPA 13D,))~~ NFPA 13R~~(;)~~ or NFPA 13, wet and dry pipe fire protection sprinkler system, provided that the:

(i) Inspection and testing technician must limit his or her work on the fire protection sprinkler system to the contractor's license level; and

(ii) Testing and maintenance of fire protection sprinkler systems such as preaction, deluge, foam or fire pumps, will be performed only by contractors who are also qualified and licensed to design and install that type of system or fire pump.

Chart 1: Fire Protection Sprinkler Contractors

Level of Contractor License	Standard Defining Work to be Performed				
	NFPA 13D	NFPA 13R	NFPA 13	NFPA 24	NFPA 25
Level 1 Contractor One- and two-family dwellings and manufactured homes	Yes	No	No	((Yes)) No	((Yes (See WAC 212-80-018- (e)(i))) No
Level 2 Contractor Residential Occupancies Up To and Including Four Stories in Height	Yes	Yes	No	((Yes)) No <u>Only if water main supplying the sprinkler system is equal or greater than 4 inches in size.</u> (See WAC 212-80-018 (1)(b))	Yes (See WAC 212-80-018 (e)(i))
Level 3 Contractor All Types of Structures	Yes	Yes	Yes	Yes	Yes (See WAC 212-80-018 (e)(i))
Level U Contractor Underground	No	No	No	Yes	No
Level I&T Inspection and Testing Contractor	No	No	No	No	<u>Yes</u> Inspection/testing only (See WAC 212-80-018 (e)(ii))

(2) **Fire protection sprinkler system certification** - Only a certificate holder may prepare layout drawings or install, inspect, test, maintain, or repair a fire protection sprinkler system or any part of such a system based on his or her design certification level.

(a) **Design certification** - The following levels will apply to design certifications issued by the director:

(i) **Level 1 design certification** - NFPA 13D(~~and underground work (NFPA 24) or inspection, testing, and maintenance (NFPA 25) for NFPA 13D~~)).

(ii) **Level 2 design certification** - NFPA 13D or NFPA 13R, and underground work (NFPA 24) when the designed and installed underground main is four inches or greater in size or inspection, testing, and maintenance (NFPA 25) for ~~(NFPA 13D or)~~ NFPA 13R.

(iii) **Level 3 design certification** - NFPA 13, NFPA 13R, or NFPA 13D, underground work (NFPA 24), and inspection, testing, and maintenance (NFPA 25) for NFPA 13D, NFPA 13R, and NFPA 13.

(b) **Specialized certifications** - The following level will apply to specialized certifications issued by the director:

(i) **Level U certification** - NFPA 24; supervise the installation, inspection, and testing of the underground fire protection sprinkler underground piping.

(ii) **Level ITT - Inspection and testing technician** - NFPA 25 for inspection or testing of a ~~(NFPA 13D)~~ NFPA 13R(~~(s)~~) or NFPA 13, wet and dry pipe fire protection sprin-

kler. The inspection and testing technician must limit his or her work to the inspection and testing contractor's license level under subsection (1)(e) of this section.

(c) Sprinkler fitter certifications - The following levels will apply to specialized certifications issued by the director:

(i) Journey-level sprinkler fitter certification - Installs, dismantles, alters, maintains, repairs, and corrects all types of sprinkler, standpipe, hose, or other hazard systems for fire protection purposes that are an assembly of piping, conduit, tubing, or hose regardless of the material composition beginning at the connection to the primary water supply. Also includes sprinkler tank heater, air lines tanks, pumps, equipment, appurtenances and all other related components attached thereto inside or outside of the building.

(ii) Residential-level sprinkler fitter certification - Limited to installation, maintenance, and repair of the fire protection sprinkler system of residential occupancies as defined by NFPA 13D and NFPA 13R. A residential level sprinkler fitter certification may also perform installation and repair of NFPA 13 fire protection sprinkler systems and components while under the direct supervision of a certified journey-level sprinkler fitter.

(iii) Trainee-level sprinkler fitter certification - Limited to performing sprinkler fitter work under the direct supervision of a journey-level sprinkler fitter or residential sprinkler fitter certified to perform the type of work the trainee-level sprinkler fitter is performing.

Chart 2: Fire Protection Sprinkler Certifications

Level of Certificate Holder - See Note (1)	Standard Defining Work That May Be Performed				
	NFPA 13D	NFPA 13R	NFPA 13	NFPA 24	NFPA 25
Level 1 Design Certification	Yes	No	No	(Yes (NFPA 13D Systems Only)) No	No
Level 2 Design Certification	Yes	Yes	No	Yes ((NFPA 13D and/or NFPA 13R Systems Only)) <u>(Restricted to only certain NFPA 13R systems) (see WAC 212-80-018 (1)(b))</u>	(No) Yes <u>(Restricted to only 13R systems)</u>
Level 3 Design Certification	Yes	Yes	Yes	Yes	(No) Yes
Level U (Design) Certification	No	No	No	Yes	No
Level ITT (Design) Certification	No	No	No	No	Yes See subsection (1)(e) of this section for exceptions
<u>Journey-Level Sprinkler Fitter</u>	<u>Yes</u>	<u>Yes</u>	<u>Yes</u>	No	No

Level of Certificate Holder - See Note (1)	Standard Defining Work That May Be Performed				
	NFPA 13D	NFPA 13R	NFPA 13	NFPA 24	NFPA 25
<u>Residential-Level Sprinkler Fitter</u>	<u>Yes</u>	<u>Yes</u>	<u>Only if under the direct supervision of a journey-level sprinkler fitter</u>	<u>No</u>	<u>No</u>
<u>Trainee-Level Sprinkler Fitter</u>	<u>Only if under the direct supervision of a residential/journey-level sprinkler fitter</u>	<u>Only if under the direct supervision of a residential/journey-level sprinkler fitter</u>	<u>Only if under the direct supervision of a journey-level sprinkler fitter</u>	<u>No</u>	<u>No</u>

Chart 3: Certificate Level Required for Level of License

Contractor Level	1	2	3	U	I&T
Building Type	One- and two-family dwellings and manufactured homes	Dwellings up to and including four stories in height	All dwellings and commercial or high occupancy facilities	Dedicated underground fire service main of a water based fire protection system	Inspection, testing, and maintenance of water based fire protection systems
Certificate Holder Level Needed to Qualify for License	1	2	3	U	ITT

(3) **May a person who has two levels of certification as provided by subsection (2) of this section work for two different licensed contractors if the person only uses one type of certification for each licensed contractor?** No. RCW 18.160.040(10) prohibits a certificate holder from working for more than one licensed contractor.

(4) **May a contractor obtain a fire protection sprinkler system license if the contractor employs only sprinkler fitters?** No. A sprinkler fitter may only install piping from approved plans with a design certification.

AMENDATORY SECTION (Amending WSR 14-03-019, filed 1/7/14, effective 2/7/14)

WAC 212-80-093 Certificate holder certification. (1) How do I become a certificate holder? The issuance of a certificate is dependent on employment with a licensed contractor. All applications for a certificate must be submitted with the fire protection sprinkler system contractor's license application. A certificate application will not be processed without the fire protection sprinkler system contractor's license application. All applications must be made on the forms provided by the director and include the required fees provided by WAC 212-80-098 and documentation for the required level of certification as provided by this section.

(a) **For Level 1 design certification**, the applicant must:

(i) Have satisfactorily passed with a final score of eighty percent or better an examination administered by the director, or present a copy of a current certificate from the National Institute for Certification in Engineering Technologies showing that the applicant has achieved Level 2 certification in the field of water-based fire protection system layout; or

(ii) Be a Washington licensed professional engineer.

(b) **For Level 2 design certification**, the applicant must:

(i) Present a copy of a current certificate from the National Institute for Certification in Engineering Technologies showing that the applicant has achieved a Level 2 in the field of water-based fire protection systems layout; or

(ii) Be a Washington licensed professional engineer.

(c) **For Level 3 design certification**, the applicant must either:

(i) Present a copy of a current certificate from the National Institute for Certification in Engineering Technologies showing that the applicant has achieved a Level 3 in the field of water-based fire protection systems layout; or

(ii) Be a Washington licensed professional engineer.

(d) **For Level U certification**, the applicant must have satisfactorily passed with a final score of eighty percent or better an examination administered by the director.

(e) For inspection and testing technician certification, the applicant must:

(i) Possess a National Institute for Certification and Engineering Technologies Inspection, Testing and Maintenance Level 2 or Level 3 certification; and

(ii) Perform work consistent with the employing contractor's licensing level.

(f) For journey-level sprinkler fitter certification, the applicant must:

(i) Provide evidence on the forms provided by the director of at least eight thousand hours of trade related fire protection sprinkler system experience in installation and repair;

(ii) Not have more than three thousand hours of the required eight thousand hours of experience in residential sprinkler fitting; and

(iii) Satisfactorily pass an examination provided by the director with a final score of eighty percent.

(g) For residential sprinkler fitter certification, the applicant must:

(i) Provide evidence on the forms provided by the director, of at least four thousand hours of trade related fire protection sprinkler system experience in installation, repair, and maintenance; and

(ii) Satisfactorily pass an examination provided by the director with a final score of eighty percent.

(h) For journey- or residential-level sprinkler fitter training certification, except as provided by (g)(i) of this subsection, the applicant must:

(i) Provide evidence to the director, on the forms provided by the director, of trade related employment by a licensed contractor;

(ii) Remain employed by a licensed contractor to maintain trainee status; and

(iii) Only engage in the fire protection sprinkler system trade when under the supervision of a certified journey level or residential installer.

(i) **For a professional engineer** (~~(is exempt from certification when acting solely in a professional capacity.)~~) to act as a Level 1, 2, or 3 certificate of competency holder and be issued a stamp, the professional engineer must:

(i) Be licensed by the department of licensing;

(ii) Obtain a Level 1, Level 2, or Level 3 certificate;

(iii) Properly register with the department of licensing;

(iv) Complete the application process for certification provided by WAC 212-80-093;

(v) Pay fees provided by WAC 212-80-073; (~~and~~)

(vi) Supply the director with proof that he or she holds a current, valid state of Washington registration as a professional engineer; and

(vii) Otherwise the professional engineer is exempt from certification when acting solely in a professional capacity as an engineer.

(2) Proof of competency to the satisfaction of the director is mandatory.

Certificate of Competency Holder Requirements				
Certificate of Competency Level	Application Required	Certification or Exam Required	Stamp Issued	Type of work performed by Certificate Holder
Level 1	Yes	NICET Level 2 or pass an exam (See ((a) of this subsection)) <u>WAC 212-80-093 (1)(a)</u>)	Yes	Designs <u>NFPA 13D</u> fire sprinkler systems or <u>inspection, testing, maintenance (NFPA 25)</u> for <u>NFPA 13D</u>
Level 2	Yes	NICET Level 2 (See ((b) of this subsection)) <u>WAC 212-80-093 (1)(b)</u>)	Yes	Designs <u>NFPA 13D, 13R</u> or certain <u>NFPA 24</u> (<u>Restricted to only certain NFPA 13R systems, see WAC 212-80-018 (1)(b)</u>) fire sprinkler systems or <u>inspection, testing, maintenance (NFPA 25)</u> for <u>NFPA 13D or 13R</u>
Level 3	Yes	NICET Level 3 or 4 (See ((b) of this subsection)) <u>WAC 212-80-093 (1)(b)</u>)	Yes	Designs <u>NFPA 13, 13D, 13R</u> or <u>24</u> fire sprinkler systems or <u>inspection, testing, maintenance (NFPA 25)</u> for <u>NFPA 13, 13D or 13R</u>

Certificate of Competency Holder Requirements				
Certificate of Competency Level	Application Required	Certification or Exam Required	Stamp Issued	Type of work performed by Certificate Holder
Level "U"	Yes	Pass an exam (See ((c) of this subsection)) WAC 212-80-093 (1)(c))	Yes	Supervises or performs the underground installation of fire sprinkler system piping ((regardless of the level it will be at the above ground connection, (i.e., Level 1, 2, or 3)))
Inspection, Testing Technician (ITT) Employed by an Inspection & Testing Contractor	Yes	NICET Level 2 (See ((d) of this subsection)) WAC 212-80-093 (1)(d))	No	Performs inspection or testing on NFPA ((13D,)) 13R((5,)) or 13, wet and dry pipe fire protection systems only
Inspection, Testing Technician (ITT) Employed by a Level ((1 or)) 2 Contractor	Yes	NICET Level 2 (See ((d) of this subsection)) WAC 212-80-093 (1)(d))	No	Performs inspection, testing and maintenance on NFPA ((13D,)) 13R((5,)) or 13, wet and dry pipe fire protection systems only
Inspection, Testing Technician (ITT) Employed by a Level 3 Contractor	Yes	NICET Level 2 (See ((d) of this subsection)) WAC 212-80-093 (1)(d))	No	Same as ITT above and includes the testing of other fire protection systems such as preaction, deluge, foam, or fire pump
Journey Sprinkler Fitter	Yes	Pass an exam (See ((e) of this subsection)) WAC 212-80-093 (1)(e))	No	Installs and repairs NFPA 13D, 13R, or 13 fire sprinkler systems
Residential Sprinkler Fitter	Yes	Pass an exam (See ((f) of this subsection)) WAC 212-80-093 (1)(f))	No	Installs, repairs, and performs maintenance on fire sprinkler systems in residential occupancies
Professional Engineer (P.E.) Licensed in Washington State	((No)) <u>Only if acting as a Level 1, 2 or 3 certificate of competency holder</u>	Licensed with department of licensing	By DOL <u>unless acting as a Level 1, 2, or 3 certificate of competency holder</u>	<u>Designs, evaluates or consults on fire protection</u> fire sprinkler systems

(3) All information submitted by an applicant to the director to apply for a certificate must be true and accurate. If the director finds that information or documents submitted by an applicant is false, misleading, or has been altered in an effort to meet the requirements provided by this chapter, the finding will constitute a level 3 violation.

(4) A violation of this section that involves a contractor allowing an employee to engage in performing fire protection sprinkler system work:

(a) Without a license or certificate, or with a license or certificate that has been expired for one or more years is a level 3 violation.

(b) With a license or certificate that has been expired for more than ninety days and less than one year is a level 2 violation.

(c) With a license or certificate that has been expired less than ninety days is a level 1 violation.

(d) By engaging in the trade of fire sprinkler fitting without having a valid sprinkler fitter certificate of competency issued for the work being conducted is a level 3 violation.

(e) By a trainee sprinkler fitter engaging in the trade of fire sprinkler fitting without the direct supervision of a certified residential or journey sprinkler fitter is a level 3 violation.

(f) As a trainee without a trainee certificate but with the direct supervision of a certified residential or journey sprinkler fitter is a level 1 violation.

WSR 17-10-032
PERMANENT RULES
DEPARTMENT OF
EARLY LEARNING

[Filed April 26, 2017, 10:38 a.m., effective May 27, 2017]

Effective Date of Rule: Thirty-one days after filing.

Purpose: Minimize the risk of children's exposure to unsafe levels of contaminants by imposing water testing requirements that will detect actionable levels of contaminants by Environmental Protection Agency standards in plumbing systems, fixtures, and private wells. Eliminate children's exposure to unsafe levels of contaminants by requiring remedial action when testing reveals unsafe levels. This rule making also creates an aligned compliance standard for family home and center child care providers.

Citation of Existing Rules Affected by this Order: Repealing WAC 170-295-5070 and 170-296A-1360; and amending WAC 170-296A-7575.

Statutory Authority for Adoption: RCW 43.215.020, 43.215.060, 43.215.070, and 43.215.201.

Other Authority: Governor Insee's Directive 16-06.

Adopted under notice filed as WSR 17-05-071 on February 13, 2017.

Changes Other than Editing from Proposed to Adopted Version: Based on public comment, the department of early learning (DEL) makes the following changes:

- WAC 170-300-0148 specifies that only organic soil may be used in raised garden beds;
- Remove the local health jurisdiction as a resource for water testing standards in WAC 170-300-0235;
- Clarify that water tests must be performed by certified labs accredited to analyze drinking water;
- Insert chapter 173-160 WAC as the authority for private well construction and maintenance standards;
- Insert the department of health as an alternative agency to local health jurisdictions that providers notify when testing reveals unsafe levels of contaminants;
- Require retesting after remediation;
- Require notice to parents when unsafe levels of contaminants are detected; and
- Remove conveyance to the department of health or a local health jurisdiction of DEL's authority to close an early learning program.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal

Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 6, Amended 1, Repealed 2.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 6, Amended 1, Repealed 2.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: April 26, 2017.

Ross Hunter
Director

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 170-295-5070 How do I make sure my water is safe?

AMENDATORY SECTION (Amending WSR 11-23-068, filed 11/14/11, effective 3/31/12)

WAC 170-296A-7575 Drinking water. The licensee must supply safe drinking water for the children in care. Drinking water must be served in a safe and sanitary manner and be available throughout the day. See WAC ((~~170-296A-1400~~) 170-300-0235) for water testing requirements for a family home child care that receives its drinking water from a private well ((~~and~~) or public) water system.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 170-296A-1360 Lead and arsenic hazards—Tacoma smelter plume.

Chapter 170-300 WAC

**FOUNDATIONAL QUALITY STANDARDS FOR
EARLY LEARNING PROGRAMS**

NEW SECTION

WAC 170-300-0005 Definitions. The following definitions apply to this chapter:

"Active supervision" or **"actively supervise"** means focused attention and intentional observation of children at all times. An early learning provider must position themselves to observe all children: Watching, counting, and listening at all times. They also use their knowledge of each child's development and abilities to anticipate what a child may do, and get involved or redirect children if necessary. Infants,

toddlers, and preschoolers must be supervised at all times including daily routines such as sleeping, eating, changing diapers, or using the bathroom.

"**Child**" means an individual who is younger than age thirteen, including any infant, toddler, preschool-age child, or school-age child as defined in this chapter.

"**Chromated copper arsenate**" or "**CCA**" is a wood preservative and insecticide that contains roughly twenty-two percent arsenic, a known carcinogen. The United States restricted the use of CCA on residential lumber in 2003, but it can still be found on older decks and playgroup equipment. Information about the health hazards of arsenic can be found at the following DOH web site: <http://www.doh.wa.gov/CommunityandEnvironment/Contaminants/Arsenic>.

"**Department**" or "**DEL**" refers to the Washington state department of early learning.

"**DOH**" refers to the Washington state department of health.

"**Early learning program**" refers to regularly scheduled care for a group of children birth through twelve years of age for periods of less than twenty-four hours, licensed by the department.

"**Early learning program space**" means the licensed indoor and outdoor space on the premises approved by the department for the purpose of providing licensed child care.

"**Early learning program staff**" refers to all persons who work or volunteer in an early learning program during hours when children are or may be present, excluding licensees.

"**Early learning provider**" refers to an early learning licensee or designee who works in an early learning program during hours when children are or may be present. Designees include center directors, assistant director, program supervisors, lead teachers, assistants, instructional aides, aides, and volunteers.

"**Health care provider**" means a person who is licensed, certified, registered, or otherwise authorized by the law of Washington state to provide health care in the ordinary course of business or practice of a profession.

"**Infant**" is a child birth through eleven months of age.

"**Toddler**" means a child twelve months through twenty-nine months of age.

NEW SECTION

WAC 170-300-0148 Gardens in outdoor early learning program space. (1) A garden in an early learning program space must:

- (a) Have safeguards in place to minimize risk of cross-contamination by animals;
- (b) Use soil free from agricultural or industrial contaminants such as lead or arsenic if gardening directly in the ground;
- (c) Use new soil that is labeled as organic and obtained from a gardening supply store or other retail store if gardening in raised beds; and
- (d) Use water that comes from a private well approved by the local health jurisdiction or from a public water system. An early learning provider must make water for gardens inaccessible to children if the provider uses irrigation water.

(2) Garden beds must be made of materials that will not leach chemicals into the soil including, but not limited to, wood treated with chromated copper arsenate, creosote or pentachlorophenol, reclaimed railroad ties, or tires.

(3) Any herbicide or pesticide must be applied pursuant to the product manufacturer's directions. The product must not be applied during program hours. Children must not apply the product, or have access to the garden during the manufacturer's prescribed waiting period following application.

(4) Commonplace toxic plants or plants with poisonous leaves (for example: Tomato, potato, or rhubarb) may be grown in the garden. An early learning provider must actively supervise children who are able to access a garden where commonplace toxic plants or plants with poisonous leaves are growing.

NEW SECTION

WAC 170-300-0235 Safe water sources. (1) Hot and cold running water shall be supplied to early learning program premises.

(2) An early learning provider must use a Washington state certified water laboratory accredited by the department of ecology to analyze drinking water to test the program water supply for lead and copper within six months of the date this section becomes effective. All fixtures used to obtain water for preparing food or infant formula, drinking, or cooking must be tested prior to licensing and at least once every six years. Testing must be done pursuant to current environmental protection agency standards. A copy of the water testing results must be kept on the licensed premises. If the test results are at or above the current EPA action level, an early learning provider must immediately:

- (a) Close the early learning program to prevent children from using or consuming water, or supply bottled or packaged water to meet the requirements of this chapter;
- (b) Consult with the department of health for technical assistance;
- (c) Contact and advise the department of the water test results and steps taken to protect enrolled children;
- (d) Notify all parents and guardians of the test results; and
- (e) Notify the department once lead and copper levels are below the current EPA action level.

(3) If an early learning program space receives water from a private well, the well must comply with chapter 173-160 WAC, Minimum standards for construction and maintenance of wells.

(a) Well water must be tested at least once every twelve months for coliform bacteria and nitrates by a Washington state certified laboratory accredited by the department of ecology to analyze drinking water. To achieve desirable results the test must indicate:

- (i) No presence of coliform bacteria; and
- (ii) The presence of less than ten parts per million (ppm) for nitrates. If test results for nitrates are greater than five but less than ten ppm, the water must be retested within six months.

(b) If well water tests positive for coliform bacteria, or greater than ten ppm for nitrates, the early learning provider must:

(i) Immediately stop using the well water in the child care premises; and

(ii) Immediately inform the local health jurisdiction or the department of health and the department of the positive test results.

(c) If directed by the department, an early learning provider must discontinue child care operations until repairs are made to the water system and water tests indicate desirable results pursuant to (b) of this subsection.

(d) If the department determines that child care operations may continue while an unsafe water system is being repaired or installs treatment, an early learning provider must:

(i) Provide an alternate source of water, approved by the department; and

(ii) Repair the well or install treatment as required and retest until the water meets the water quality standards pursuant to (b) of this subsection.

(4) An early learning provider must immediately notify the department when the water connection to an early learning program space is interrupted for more than one hour, or the water source becomes contaminated:

(a) The department may require the early learning provider to temporarily close until the water connection is restored or the water source is no longer contaminated; or

(b) The early learning provider must obtain an alternative source of potable water such as bottled or packaged water. The amount of the alternative source of potable water must be sufficient to ensure compliance with the requirements of this chapter for safe drinking water, handwashing, sanitizing, dishwashing, and cooking.

NEW SECTION

WAC 170-300-0400 Application materials. (1) After completing a department orientation an applicant must submit a complete license application packet, pursuant to chapter 43.215 RCW. This requirement also applies to a change of ownership. A complete license application packet includes:

(a) Professional and background information about the applicant:

(i) A completed department application form for the type of license being applied for (center or family home);

(ii) A copy of the applicant's certificate from an orientation completed within twelve months of the application;

(iii) A Washington state business license or a tribal, county, or city business or occupation license, if applicable;

(iv) Liability insurance, if applicable;

(v) Certificate of incorporation, partnership agreement, or similar business organization document, if applicable;

(vi) The license fee;

(vii) A copy of current government issued photo identification;

(viii) A copy of Social Security card or sworn declaration stating that the applicant does not have one;

(ix) Employer identification number (EIN) if applicant plans to hire staff; and

(x) Employment or education verification. For example, diploma, transcripts, or a sworn declaration stating that the applicant cannot verify education requirements.

(b) Information about the facility to be licensed:

(i) A floor plan, including use of proposed licensed and unlicensed space, with identified emergency exits and emergency exit pathways;

(ii) Certificate of occupancy, if applicable;

(iii) An on-site septic system inspection report within six months of the inspection, if applicable;

(iv) Well water coliform and nitrate testing results within six months of license application, if applicable;

(v) A lead or arsenic evaluation agreement, only for sites located in the Tacoma smelter plume (counties of King, Pierce, and Thurston); and

(vi) Lead and copper test results for drinking water.

(c) Program hours of operation, including closure dates and holiday observances;

(d) Information about early learning program staff:

(i) List of applicant, staff persons, volunteers, and household members, if applicable, required to complete the background check process as outlined in chapter 170-06 WAC;

(ii) Resume for applicant, center director, assistant director, program supervisor, and family home lead teacher, if applicable; and

(iii) Three letters of professional reference for applicant, director, assistant director, program supervisor, and family home lead teacher.

(2) An applicant must include the following policy documents with the application, which will be reviewed by the department and returned to the applicant:

(a) Parent and program policies;

(b) Staff policies;

(c) An emergency preparedness plan;

(d) Health policies; and

(e) A plan to prevent exposure to blood and body fluids.

(3) An applicant must submit the completed application packet at least ninety calendar days prior to the planned opening of the early learning program. The department will inspect the early learning program space and approve all application submissions required in this chapter prior to issuing a license:

(a) The ninety calendar days begins when the department receives a complete application packet.

(b) Incomplete application packets will be returned to the applicant for completion.

(c) An applicant who is unable to successfully complete the application and licensing process within ninety days may withdraw the application and reapply when the applicant is able to meet the licensing requirements.

(d) An applicant who is unable to meet the application requirements and has not withdrawn his or her application will be denied a license, pursuant to RCW 43.215.300.

NEW SECTION

WAC 170-300-0410 License and program location.

(1) An applicant for a license under this chapter must be at least eighteen years old.

(2) A licensee refers to the individual or organization:

(a) Whose name appears on a license issued by the department;

(b) Responsible for complying with the standards in this chapter, chapter 43.215 RCW including, but not limited to, liability insurance requirements pursuant to RCW 43.215.-535, chapter 170-06 WAC, DEL background check rules, and other applicable laws or rules; and

(c) Responsible for training early learning program staff on the foundational quality standards in this chapter.

(3) An early learning provider must comply with and implement all requirements in this chapter unless another code or ordinance is more restrictive (for example: A local municipal, building, or health authority code).

(4) An early learning provider must have the character, suitability, and competence pursuant to chapter 170-06 WAC to meet the needs of children in care.

(5) Early learning program space must be located:

(a) On a site free from environmental hazards;

(b) In an area where nonemergency services and utilities can serve the early learning program space; and

(c) In an area served by emergency fire, medical, and police during the hours the early learning provider provides care to children.

(6) An early learning provider must prevent child exposure to the following within and around the licensed premises:

(a) Lead based paint;

(b) Plumbing and fixtures containing lead or lead solders;

(c) Asbestos;

(d) Arsenic, lead, or copper in the soil or drinking water;

(e) Toxic mold; and

(f) Other identified toxins or hazards.

(7) An early learning provider must place address numbers on the outside of the house or building containing the early learning program space, and the numbers must be legible and plainly visible from the street or road serving the premises.

(8) A license applicant planning to open an early learning program in the designated Tacoma smelter plume (counties of King, Pierce, and Thurston) must contact the state department of ecology (DOE) and complete and sign an access agreement with DOE to evaluate the applicant's property for possible arsenic and lead soil contamination.

NEW SECTION

WAC 170-300-0465 Retaining facility and program records. (1) An early learning provider must keep all records required in this chapter for a minimum of five years unless otherwise indicated.

(2) All records from the previous twelve months must be kept in the licensed space and be immediately available for the department or other state agency's review. Immediately accessible records include:

(a) Child records;

(b) Staff records; and

(c) Attendance records.

(3) Records older than twelve months must be provided within two weeks of a written request by the department.

(4) An early learning provider must keep other required and applicable records available for department review according to each record's specific retention schedule. These records include:

(a) A nondiscrimination policy;

(b) Strengthening Families Program Assessment or a department-approved equivalent;

(c) Furniture, sleep, and play equipment forms and specifications;

(d) Chromated copper arsenate test results, if applicable;

(e) Annual fire inspection by qualified fire professional;

(f) Annual inspection of chimney, wood stove, and fireplace;

(g) Monthly inspection to identify fire hazards and elimination of such hazards;

(h) Monthly testing of smoke and carbon monoxide detectors;

(i) Monthly fire extinguisher inspection and annual maintenance;

(j) Menus (six months) per CACFP;

(k) Food temperature logs per CACFP;

(l) Child incident and illness logs;

(m) Medication administration logs;

(n) Vaccination records for pets or animals housed at the early learning provider program;

(o) Private well and septic systems inspection and testing results;

(p) Lead and copper testing results;

(q) Center or family home cleaning schedule;

(r) Alternative cleaning, sanitizing, and disinfecting products approval from department health specialist;

(s) Cleaning log for large area rugs or carpets;

(t) Pesticide use (seven years);

(u) Monthly site visit from nurse consultant, if applicable;

(v) Tacoma smelter inspection results;

(w) Restraint and expulsion policy;

(x) Daily schedule;

(y) Curriculum planning time;

(z) Parent or guardian handbook;

(aa) Documents from any department visits (inspections, monitoring, compliance agreements, safety plans);

(bb) Waivers or variances from department rules, if applicable;

(cc) Written emergency preparedness plan and drills;

(dd) Transportation policy;

(ee) Car insurance policy;

(ff) Termination of services policy;

(gg) Continuity of care policy; and

(hh) Health policy.

WSR 17-10-033

PERMANENT RULES

DEPARTMENT OF

EARLY LEARNING

[Filed April 26, 2017, 10:40 a.m., effective May 27, 2017]

Effective Date of Rule: Thirty-one days after filing.

Purpose: Update licensed child care provider rules with current health and safety standards for infants' and toddlers' safe sleep practices. This rule making also creates an aligned standard that replaces separate rules that apply to family home and center child care providers.

Citation of Existing Rules Affected by this Order: Repealing WAC 170-295-4110 and 170-296A-7100.

Statutory Authority for Adoption: RCW 43.215.020, 43.215.060, 43.215.070, and 43.215.201.

Adopted under notice filed as WSR 17-05-070 on February 13, 2017.

Changes Other than Editing from Proposed to Adopted Version: In response to public comment on the proposed rules, the department of early learning:

- Replaces the requirement to check on sleeping infants every fifteen minutes with the requirement to actively supervise infants and toddlers by visibly checking often and being within sight and hearing range at all times;
- Requires a provider to return an infant who has rolled over while sleeping to his or her back until the infant is able to independently roll from back to front and front to back;
- Makes WAC 170-300-0291 (1)(a), (d), (e), (f), and (j) apply to toddlers in addition to the proposed infants; and
- Removes WAC 170-300-0291(l) that directed providers to respond to waking infants and toddlers within prescribed time periods.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 1, Amended 0, Repealed 2.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: April 26, 2017.

Ross Hunter
Director

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 170-295-4110 What are infant safe sleep practices?

Reviser's note: The typographical errors in the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 170-296A-7100 Infant safe sleep practices.

NEW SECTION

WAC 170-300-0291 Infant and toddler safe sleep practices. (1) An early learning provider must follow safe sleep practices when infants and toddlers are napping or sleeping by:

(a) Actively supervising infants or toddlers by visibly checking often and being within sight and hearing range, including when an infant or toddler goes to sleep, is sleeping, or is waking up;

(b) Following the current standard of American Academy of Pediatrics concerning safe sleep practices including SIDS/SUIDS risk reduction;

(c) Placing an infant to sleep on his or her back or following the current standard of American Academy of Pediatrics. If an infant turns over while sleeping, the provider must return the infant to his or her back until the infant is able to independently roll from back to front and front to back;

(d) Not using a sleep positioning device unless directed to do so by an infant's or toddler's health care provider. The directive must be in writing and kept in the infant's or toddler's file;

(e) Sufficiently lighting the room in which an infant or toddler is sleeping to observe skin color;

(f) Monitoring breathing patterns of an infant or toddler;

(g) Allowing infants and toddlers to follow their own sleep patterns;

(h) Not allowing loose blankets, stuffed toys, pillows, crib bumpers, and similar items inside an occupied crib, bassinet, or other equipment where infants commonly sleep;

(i) Not allowing a blanket or any other item to cover or drape over an occupied crib, bassinet, or other equipment where infants commonly sleep;

(j) Not allowing a blanket, bedding, or clothing to cover any portion of an infant's or toddler's head or face while sleeping, and readjusting these items when necessary; and

(k) Preventing infants or toddlers from getting too warm while sleeping, which may be exhibited by indicators that include, but are not limited to, sweating; flushed, pale, or hot and dry skin, warm to the touch; a sudden rise in temperature; vomiting; refusing to drink, a depressed fontanelle; or irritability.

(2) An early learning provider who receives notice of a safe sleep violation must:

(a) Post the notice in the licensed space for two weeks or until the violation is corrected, whichever is longer; and

(b) Within five business days of receiving notice of the violation, provide all parents and guardians of enrolled children with:

(i) A letter describing the safe sleep violation; and

(ii) Written information on safe sleep practices for infants and toddlers.

WSR 17-10-035
PERMANENT RULES
DEPARTMENT OF
RETIREMENT SYSTEMS

[Filed April 26, 2017, 12:44 p.m., effective May 27, 2017]

Effective Date of Rule: Thirty-one days after filing.

Purpose: Law enforcement officers' and firefighters' (LEOFF) Plan 2 disaster coverage death and disability benefits: Implementing chapter 115, Laws of 2016 (SB 6263), which provides enhanced benefits for a LEOFF Plan 2 member who dies or is disabled before returning to LEOFF employment, after leaving membership to enter federal service in response to a natural disaster or other emergency.

Citation of Existing Rules Affected by this Order: Amending WAC 415-104-011 Definitions.

Statutory Authority for Adoption: RCW 41.50.050(5).

Adopted under notice filed as WSR 17-07-117 on March 21, 2017.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 1, Amended 1, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: April 26, 2017.

Tracy Guerin
 Director

AMENDATORY SECTION (Amending WSR 16-08-007, filed 3/24/16, effective 4/24/16)

WAC 415-104-011 Definitions. All definitions in RCW 41.26.030 and WAC 415-02-030 apply to terms used in this chapter. Other terms relevant to the administration of chapter 41.26 RCW are defined in this chapter.

(1) **Commissioned** means that an employee is employed as an officer of a general authority Washington law enforcement agency and is empowered by that employer to enforce the criminal laws of the state of Washington.

(2) **Director of public safety** means a person who is employed on or after January 1, 1993, by a city or town on a full-time, fully compensated basis to administer the programs and personnel of a public safety department.

This definition applies only to cities or towns in which the population did not exceed ten thousand at the time the person became employed as a director of public safety.

(3) **Elective employer** means the employer of the LEOFF Plan 1 elected official during the member's leave of absence from the LEOFF employer for the purpose of serving in elective office.

(4) **Full-time employee** means an employee who is normally expected to earn basic salary from an employer for a minimum of one hundred sixty hours in a calendar month.

(5) **Fully compensated employee** means an employee who is normally expected to earn a basic monthly salary no less than one hundred sixty times the state minimum hourly wage. Nominal sums including, but not limited to, stipends or ancillary benefits such as insurance or leave accrual, provided to volunteer firefighters are not compensation for the purpose of determining whether a firefighter is fully compensated.

(6) **Left the employ of an employer** as used in RCW 41.26.470, 41.26.510, and 41.26.520 means any break in employment, whether formally separated or not formally separated, due to service in the uniformed services, national guard, military reserves, federal emergency management agency, or national disaster medical system of the United States Department of Health and Human Services.

(7) **LEOFF** means the law enforcement officers' and firefighters' retirement system established by chapter 41.26 RCW.

~~((7))~~ (8) **LEOFF employer** means the employer, as defined in RCW 41.26.030, who employs the member as a law enforcement officer or firefighter.

~~((8))~~ (9) **LEOFF Plan 1 elected official** means a LEOFF Plan 1 member who is a civil service employee on leave of absence because he or she has been elected or appointed to an elective public office and who chooses to preserve retirement rights as an active LEOFF member under the procedure described in this chapter.

~~((9))~~ (10) **Performing service** as used in RCW 41.26.-470, 41.26.510, and 41.26.520 means engaging in activities in response to a disaster, major emergency, special event, federal exercise, or official training after having left the employ of an employer as described in subsection (6) of this section.

(11) **Plan 1 and Plan 2.**

(a) "Plan 1" means the law enforcement officers' and firefighters' retirement system providing the benefits and funding provisions covering persons who first became members of the system prior to October 1, 1977.

(b) "Plan 2" means the law enforcement officers' and firefighters' retirement system providing the benefits and funding provisions covering persons who first became members of the system on and after October 1, 1977.

~~((10))~~ (12) **Public safety officer** means a person who is employed on or after January 1, 1993, on a full-time, fully compensated basis by a city or town to perform both law enforcement and firefighter duties.

This definition applies only to cities or towns in which the population did not exceed ten thousand at the time the person became employed as a public safety officer.

~~((H))~~ (13) **Uniformed firefighter position** means a position which may only be filled by uniformed personnel as that term is defined in RCW 41.56.030 (7)(e) as in effect on July 1, 1995. A position only qualifies as a uniformed firefighter position if the employer has identified it as such for all purposes. An employer may designate a position as uniformed regardless of whether the employer is covered by public employees' collective bargaining under chapter 41.56 RCW.

NEW SECTION

WAC 415-104-490 Death or disability while performing nonduty emergency management service. (1) **If I die or become disabled while performing nonduty emergency management service, will I or my survivors be eligible for LEOFF benefits?** As a LEOFF Plan 2 member, you or your survivors may be eligible for nonduty disability or death benefits if you become disabled or die while you are performing nonduty emergency management service.

(2) **What are the criteria for eligibility?** To be eligible for benefits under this section, you must meet all of the following criteria:

(a) You must be determined by DRS to be eligible for disability benefits as described in RCW 41.26.470 and WAC 415-104-485, or death benefits as described in RCW 41.26.510.

(b) You must have "left the employ of an employer" to "perform service" as both of those terms are defined in WAC 415-104-011. You will need to show evidence, such as a DD214, proof of leave status from your LEOFF employer, orders, or other relevant sources of information.

(c) Your disability or death must have resulted from conditions or events that occurred while you were performing the service described in (b) of this subsection, on or after March 22, 2014.

(3) **Will I receive service credit for the emergency management service?**

(a) You or your survivors may apply for up to five years of service credit for your emergency management service:

(i) Up to the date of your separation from such service if you are disabled; or

(ii) Up to the date of your death if you die while performing service.

(b) There will be no cost to you for the service credit. The department will bill your employer for contributions. No interest will be charged.

(4) **How will the benefits be calculated?** If you are approved for benefits under this section, your benefit will be a minimum of ten percent of your average final salary, with an additional two percent for each year of service beyond five. Your benefit will not be reduced for early retirement.

(a) If your application for nonduty disability is approved under this section, the benefit will be calculated as described in RCW 41.26.470(11).

(b) If an application for death benefits filed by your survivors is approved under this section, the benefit will be calculated as described in RCW 41.26.510 (4)(c).

WSR 17-10-044

PERMANENT RULES DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Aging and Long-Term Support Administration)

[Filed April 28, 2017, 9:11 a.m., effective May 29, 2017]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The department is creating WAC 388-102-0100 Online registration, contained in new chapter 388-102 WAC, Online registration of continuing care retirement communities, to establish consistent application and registration requirements for the continuing care retirement community online state registry.

Statutory Authority for Adoption: RCW 43.17.060, 18.390.40 [18.390.040].

Other Authority: SSHB [2SHB] 2726, chapter 183, Laws of 2016.

Adopted under notice filed as WSR 17-06-069 on March 1, 2017.

Changes Other than Editing from Proposed to Adopted Version: 1. WAC 388-102-0100(1), "business analysis and applications unit (BAAU)" was deleted.

2. WAC 388-102-0100(2), "aging and long-term support administration (AL TSA)" was changed to "the department's."

3. WAC 388-102-0100(3), "register" was changed to "reapply," and "before its current registration expires" was added.

4. WAC 388-102-0100 (5)(b), "should" was changed to "must."

5. WAC 388-102-0100 (5)(c) was added.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 1, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 1, Amended 0, Repealed 0.

Date Adopted: April 27, 2017.

Katherine I. Vasquez
Rules Coordinator

Chapter 388-102 WAC

ONLINE REGISTRY OF CONTINUING CARE RETIREMENT COMMUNITIES (CCRC)

NEW SECTION

WAC 388-102-0100 Online registry. (1) The department of social and health services will establish an online registry as required by chapter 18.390 RCW.

(2) To be eligible to be registered as a continuing care retirement community (CCRC) and listed on the department's CCRC online registry, an entity must:

- (a) Complete the application; and
- (b) Pay the registration fee.

(3) A CCRC must reapply with the state and pay the required fee every two years before its current registration expires.

(4) At the time of the application for or renewal of a CCRC registration, the entity must pay a registration fee. Beginning July 1, 2017, the registration fee must be established in the omnibus appropriations act and any amendment or additions made to that act.

(5) An applicant may appeal agency denials of an application for CCRC registration.

(a) Appeals to the department must be made in writing within thirty days of the department's denial.

(b) Appeals must be sent to the office of administrative hearings.

(c) Appeals are governed by chapter 388-02 WAC.

WSR 17-10-055

PERMANENT RULES

CRIMINAL JUSTICE

TRAINING COMMISSION

[Filed May 2, 2017, 9:03 a.m., effective June 2, 2017]

Effective Date of Rule: Thirty-one days after filing.

Purpose: WAC 139-05-915 Requirements of training for law enforcement and corrections dog handlers and certification of canine teams, a simple language update reflecting the intent to have criminal justice training commission (CJTC) policy identify the length of a valid canine team certification. The proposed language was the intended language. As this matter is addressed in CJTC policy, there are no anticipated issues surrounding this request.

Citation of Existing Rules Affected by this Order: Amending 1 [WAC 139-05-915].

Statutory Authority for Adoption: RCW 43.101.080.

Adopted under notice filed as WSR 17-06-081 on March 1, 2017.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Date Adopted: May 2, 2017.

Sonja Peterson
Rules Coordinator

AMENDATORY SECTION (Amending WSR 17-01-059, filed 12/14/16, effective 1/14/17)

WAC 139-05-915 Requirements of training for law enforcement and corrections dog handlers and certification of canine teams. Canine teams working in the state of Washington shall be certified to the adopted standards as set by criminal justice training commission (CJTC) policy. The standards shall be maintained by commission staff and readily available to stakeholders. These standards include the minimum performance standards for canine teams performing specific law enforcement or corrections functions. As a condition of certification, each handler must ensure that the canine performs to a level that is deemed acceptable by the commission in the category for the team's intended use.

An evaluator shall be a person who is recognized and appointed by the CJTC to perform the testing of the canine teams. The qualifications to become an evaluator relating to canine certification shall be outlined in the evaluation policy adopted by the CJTC.

In evaluating the proficiency of the canine team, evaluators shall use the standards approved by the commission for that particular discipline. Each certification issued pursuant to these rules will remain valid (~~for twelve months~~) as set forth in CJTC policy, as long as the composition and responsibility of the canine team does not change. A canine team's certification shall automatically expire if the specific handler and canine, originally paired at the time of certification, cease to perform canine team functions together or if the function for which the team was certified changes.

This process is not related to, nor does it have any effect upon, the requirements for peace officer certification. Nothing in these rules is intended to limit the use of canine teams employed by other state or federal agencies for law enforcement purposes, or the use of volunteer canine teams where the handler is not a Washington peace officer or corrections officer.

WSR 17-10-058

PERMANENT RULES

HEALTH CARE AUTHORITY

(Washington Apple Health)

[Filed May 2, 2017, 10:07 a.m., effective June 2, 2017]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The agency is amending WAC 182-550-2531 to strike the requirement of an agency facility site visit in order to qualify as an agency-approved acute physical medicine and rehabilitation (PM&R) hospital. The agency is amending WAC 182-550-2551 as follows: Reorganizing the section to clarify that acute PM&R services may be authorized when all criteria in the section are met; adding acute inflammatory demyelinating polyneuropathy to the list of conditions that qualifies clients for acute PM&R services;

and adding language that says the agency will evaluate requests per WAC 182-501-0165 for acute PM&R services that do not meet the criteria in the section. The agency also made housekeeping changes.

Citation of Existing Rules Affected by this Order: Amending WAC 182-550-2531 and 182-550-2551.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160.

Adopted under notice filed as WSR 17-07-031 on March 8, 2017.

Changes Other than Editing from Proposed to Adopted Version: Added "for medical necessity" to WAC 182-550-2551(2) as follows:

(2) If the client does not meet the clinical criteria set forth in this section, the agency will evaluate the request for medical necessity according to the process in WAC 182-501-0165.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 2, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 2, Repealed 0.

Date Adopted: May 2, 2017.

Wendy Barcus
Rules Coordinator

AMENDATORY SECTION (Amending WSR 15-18-065, filed 8/27/15, effective 9/27/15)

WAC 182-550-2531 Requirements for becoming an acute PM&R provider. (1) Before August 1, 2007, only an in-state or bordering city hospital may apply to become a medicaid agency-approved acute PM&R hospital. After July 31, 2007, an in-state, bordering city or critical border hospital may apply to become an agency-approved acute PM&R hospital. To apply, the agency requires the hospital provider to submit a letter of request to:

Acute PM&R Program Manager
(~~Division of Health Care Services~~
~~Health and Recovery Services Administration~~)
Clinical Quality and Care Transformation (CQCT)
Medical and Dental Services
P.O. Box 45506
Olympia, WA 98504-5506

(2) A hospital that applies to become an agency-approved acute PM&R facility must provide the agency with documentation that confirms the facility is all the following:

(a) A medicare-certified hospital;

(b) Accredited by the joint commission on accreditation of health care organizations (JCAHO);

(c) Licensed by the department of health (DOH) as an acute care hospital as defined under WAC 246-310-010;

(d) Commission on accreditation of rehabilitation facilities (CARF) accredited as a comprehensive integrated inpatient rehabilitation program or as a pediatric family centered rehabilitation program, unless subsection (3) of this section applies;

(e) For dates of admission before July 1, 2007, contracted under the agency's selective contracting program, if in a selective contracting area, unless exempted from the requirements by the agency; and

(f) Operating per the standards set by DOH (excluding the certified rehabilitation registered nurse (CRRN) requirement) in either:

(i) WAC 246-976-800 Level I trauma rehabilitation designation; or

(ii) WAC 246-976-800 Level II trauma rehabilitation designation.

(3) A hospital not yet accredited by CARF:

(a) May apply for or be awarded a twelve-month conditional written approval by the agency if the facility:

(i) Provides the agency with documentation that it has started the process of obtaining full CARF accreditation; and

(ii) Is actively operating under CARF standards.

(b) Must obtain full CARF accreditation within twelve months of the agency's conditional approval date. If this requirement is not met, the agency sends a letter of notification to revoke the conditional approval.

(4) A hospital qualifies as an agency-approved acute PM&R hospital when:

(a) The hospital meets all the applicable requirements in this section; and

~~(b) ((The agency's clinical staff has conducted a facility site visit; and~~

~~(e)))~~ The agency provides written notification that the hospital qualifies to be paid for providing acute PM&R services to eligible Washington apple health clients.

(5) The agency-approved acute PM&R hospitals must meet the general requirements in chapter 182-502 WAC Administration of medical programs—Providers.

AMENDATORY SECTION (Amending WSR 11-14-075, filed 6/30/11, effective 7/1/11)

**WAC 182-550-2551 (~~How a client qualifies for~~)
When the medicaid agency authorizes acute PM&R services.** (1) ~~((To qualify for))~~ A acute PM&R services ~~((; a client must meet one of the conditions in subsection (2) of this section and have))~~ may be authorized when all of the following are met:

~~(a) ((Extensive or complex medical needs, nursing needs, and therapy needs; and~~

~~(b) A recent or new onset of a condition that causes an))~~

The client has all of the following:

(i) Extensive or complex medical needs;

(ii) Nursing needs; and

(iii) Therapy needs.

(b) The client has a new or recent significant impairment in two or more of the following areas:

- (i) Mobility and strength;
- (ii) Self-care/ADLs (activities of daily living);
- (iii) Communication; or
- (iv) Cognitive/perceptual functioning.

~~((2) To qualify for acute PM&R services, a client must meet the conditions in subsection (1) of this section and have))~~ (c) The client has a new or recent onset of one of the following conditions:

- ~~((a))~~ (i) Brain injury caused by trauma or disease.
- ~~((b))~~ (ii) Spinal cord injury resulting in:
 - ~~((1))~~ (A) Quadriplegia; or
 - ~~((2))~~ (B) Paraplegia.
- ~~((c))~~ (iii) Extensive burns.
- ~~((d))~~ (iv) Bilateral limb loss.
- ~~((e))~~ (v) Stroke or aneurysm with resulting hemiplegia or cognitive deficits, including speech and swallowing deficits.

~~((f))~~ (vi) Multiple trauma (after the client is cleared to bear weight) with complicated orthopedic conditions and neurological deficits.

~~((g) Severe pressure ulcers after))~~ (vii) Skin flap surgery after severe pressure ulcer for a client who:

- ~~((1))~~ (A) Requires close observation by a surgeon; and
- ~~((2))~~ (B) Is ready to mobilize or be upright in a chair.

(viii) Acute inflammatory demyelinating polyneuropathy (AIDP).

(2) If the client does not meet the clinical criteria set forth in this section, the agency will evaluate the request for

medical necessity according to the process in WAC 182-501-0165.

WSR 17-10-059
PERMANENT RULES
DEPARTMENT OF
LABOR AND INDUSTRIES

[Filed May 2, 2017, 10:28 a.m., effective January 1, 2018]

Effective Date of Rule: January 1, 2018.

Purpose: Adopt amendments to:

- WAC 296-17A-6108 and 296-17A-6509, to better distinguish between skilled nursing facilities and other care residences by aligning the classifications to DSHS licensing.
- WAC 296-17A-6509 and 296-17A-6205, to move fraternities and sororities out of a classification primarily for care facilities and into the classification for clubs. The nature of operations and loss rates for fraternities and sororities aligns better with the organizations in the clubs' classification, than those in the classification for care residences, classification 6509.
- WAC 296-17A-5301, to include tutoring services. Currently tutoring services are assigned to several unrelated classifications. Many businesses only have standard exception classifications rather than a basic classification.

Citation of Existing Rules Affected by this Order:

	WAC Numbers and descriptions	Proposed change	Reason for change
1.	WAC 296-17A-5301 (subclassification 5301-21, Word processing or secretarial services)	Include tutoring services in scopes of subclassification 5301-21.	<ul style="list-style-type: none"> · Tutoring services are not currently anywhere in WAC, and classifying them has not been consistent. · Classification 5301 appropriately represents the overall relative low hazard of tutoring services. · Classification 5301 allows for exposure to a business's operative hazards, and is administratively simple, since it doesn't require employers to track hours.
2.	WAC 296-17A-6108 (nursing homes)	Limit classification 6108 to facilities licensed as nursing homes and/or skilled nursing centers by DSHS.	<ul style="list-style-type: none"> · To provide for more consistency and equity when classifying care facilities.
3.	WAC 296-17A-6205 (clubs)	Reclassify fraternities and sororities from classification 6509 to classification 6205.	<ul style="list-style-type: none"> · Fraternities and sororities do not provide the personal and medical services common to other type residences found in classification 6509. · This is similar to the National Council on Compensation Insurance (NCCI) practices in other states. NCCI includes fraternities and sororities with the clubs, not otherwise classified, code.

	WAC Numbers and descriptions	Proposed change	Reason for change
			· Fraternities and sororities appear to have a lower level of hazard than the rest of classification 6509.
4.	WAC 296-17A-6509 (adult family homes, Alzheimer units, and other care facilities)	Assign classification 6509 to residences licensed by DSHS as providing care other than as hospitals, nursing homes, or skilled nursing centers.	· To provide for more consistency and equity when classifying care facilities.

Statutory Authority for Adoption: RCW 51.16.035 (directs the department to classify all businesses by degree of hazard in accordance with recognized insurance principles).

Other Authority: WAC 296-17-31029 (outlines insurance principles for classifying businesses).

Adopted under notice filed as WSR 16-24-067 on December 6, 2016.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 4, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 4, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 4, Repealed 0.

Date Adopted: May 2, 2017.

Joel Sacks
Director

AMENDATORY SECTION (Amending WSR 14-17-085, filed 8/19/14, effective 9/19/14)

WAC 296-17A-5301 Classification 5301.

5301-10 Accounting or bookkeeping services

Applies to establishments engaged in providing general accounting or bookkeeping services to others. Types of services contemplated by establishments subject to this classification include, but are not limited to:

- Auditing;
- Tax preparation;
- Medical or dental claims processing and billing;
- Advisory services.

This classification includes:

- Clerical office;
- Outside sales, and personnel who travel from one office

to another.

This classification excludes establishments engaged primarily in management consultant services that are not otherwise classified, which are to be reported separately in classification 5301-12.

Special note: This classification is limited to employers engaged in such services being provided to the general public. This is a services only classification and does not include retailing or store operations, nor is this classification to be assigned to employers setting up separate business operations to manage other commonly owned or operated business undertakings unless coincidentally the other operations are also subject to this classification.

5301-11 Law firms

Applies to establishments engaged in providing legal services to others. Law firms may specialize in one or more areas of law. This classification includes clerical office and outside sales personnel who travel from one office environment to another.

Special note: This is a services only classification and does not include retailing or store operations, nor is this classification to be assigned to employers setting up separate business operations to manage other commonly owned or operated business undertakings unless coincidentally the other operations are also subject to this classification.

5301-12 Management consultant services, N.O.C.

Applies to establishments engaged in providing management consulting services not covered by another classification (N.O.C.). Management consultants typically will observe and analyze:

- Computer or communication systems;
- Mail distribution;
- Organizational structures;
- Planning or development of related business needs;
- Work processes or work flows.

After a thorough analysis, consultants usually prepare a written report for the customer which identifies problem areas and/or recommends improvements to processes or equipment. Consultants may remain to oversee the implementation of the recommended improvements. Consultants subject to this classification do not sell any product they have recommended although they may act as an agent for their client in purchasing the product. Consulting projects vary from client to client depending upon the contract. Included within this classification are businesses that provide similar consultative services such as, but not limited to:

- Advertising agencies;
- Employer representative organizations;
- Mortgage brokers and financial advisers who do not make purchases on behalf of their clients;
- Public relations companies.

This classification includes clerical office staff, outside sales personnel and other staff who travel from one office to another.

This classification excludes businesses that perform computer consulting for others, which is to be reported in classification 5302.

Special note: This classification is limited to employers engaged in such services being provided to the general public. This is a services only classification and does not include retailing or store operations, nor is this classification to be assigned to employers setting up separate business operations to manage other commonly owned or operated business undertakings unless coincidentally the other operations are also subject to this classification.

5301-13 Credit bureaus; collection agencies

Applies to establishments that are licensed to provide collection and/or credit investigation services to others. Services include, but are not limited to:

- Checking the credit backgrounds of their client's potential customers;
- Collection of NSF checks or delinquent debts owed to clients of the collection agency.

If debts are not collected, the service agency may initiate legal proceedings against the debtor. This classification includes clerical office and outside sales personnel, and other staff who travel from one office to another.

This classification excludes establishments engaged in providing process and legal messenger services which are to be reported separately in classification 6601.

5301-14 Employment agencies

(only to be assigned by the temporary help/leasing underwriter)

Applies to establishments that are licensed to provide employment services for others. Clients of employment agencies may be persons seeking employment or companies looking for employees. Employment agencies usually conduct preliminary interviews with candidates for positions prior to referring them to their client companies for interviews. Generally, establishments subject to this classification place people in permanent positions. This classification includes clerical office and outside sales personnel, and staff who travel from one office to another.

This classification excludes:

- Employees of a temporary help agency who are assigned to work in the administrative or branch offices of the agency who are to be reported separately in classification 7104;
- Employees of a temporary help agency who are assigned on a temporary basis to its customers who are to be reported separately in the appropriate temporary help classification.

5301-15 Court reporting services

Applies to establishments engaged in providing court reporting services to others. Court reporters record verbatim testimony presented in court proceedings, depositions, public hearings or meetings. The most frequently used method to record testimony is by stenotype machine, although it may be recorded by voice recording on audio tape, or by manual shorthand. Transcription of the recorded material may be performed by the court reporter or by "note readers" or typists. The majority of court reporters today use computer-aided transcription systems. Court reporters may also offer notary

public services for their clients. This classification includes clerical office and staff who travel from one office to another.

5301-16 Service and professional organizations

Applies to establishments engaged in protecting or furthering the interest of their members and/or the general public. Many of these operate as nonprofit organizations. Service and professional organizations may perform one or many of the following activities:

- Administer certification tests;
- Arbitrate disputes;
- Award scholarships;
- Collect membership dues;
- Compile, review, and disseminate informational data;
- Disburse funds;
- Host conventions;
- Issue vehicle license registrations, plates, decals, and certificates of title;
- Lobby the legislature;
- Manage promotional marketing programs;
- Maintain a membership directory;
- Offer insurance programs;
- Operate a tourist information center;
- Organize fund-raising campaigns;
- Perform charitable community services;
- Perform collective bargaining;
- Provide counseling, adoption, and advocacy services;
- Provide job placement assistance;
- Publish a newsletter;
- Research and interpret local, state, and federal regulations and apprise members of the results;
- Sponsor athletic leagues and tournaments;
- Sponsor educational training programs.

Also included in this classification are Economic Development Councils, Boards, or Associations. These nonprofit organizations provide economic consulting services and related statistics to government and industry in the promotion of economic stability, and recruit businesses that will create jobs and provide loans from the grant funds they manage. This classification includes clerical office and outside sales personnel who travel from one office environment to another.

This classification excludes:

- Collection of donated items by truck which is to be reported separately in classification 1101;
- Labor unions and employee representative associations which are to be reported separately in classification 6503.

Special note: If a charitable organization subject to classification 5301 operates a retail store for the sale of donated items, the collection of those items by truck, and all store operations, are to be reported separately in classification 6504.

5301-18 Telephone answering services

Applies to establishments engaged in providing telephone answering services for others. Customers include, but are not limited to:

- Attorneys;
- Medical professionals;
- Private businesses;
- Individuals.

Most answering services today use computerized communications systems to identify company names when answering calls for various companies, obtain correct information about the company to respond to questions, record and relay accurate messages in a timely manner. Related services often offered by telephone answering service companies include, but are not limited to:

- Dispatching;
- Monitoring alarm systems;
- Placing reminder calls;
- Rental of office space;
- Scheduling appointments for customers;
- Telemarketing;
- Voice mail or paging.

This classification includes clerical office personnel and staff who travel from one office to another.

5301-19 Travel agencies

Applies to establishments engaged in providing travel arrangement services for others. Travel agencies coordinate all types of travel arrangements for their clients through:

- Air;
- Bus lines;
- Car rental agencies;
- Cruise;
- Hotels;
- Motels;
- Related travel providers;
- Resorts;
- Train;
- Travel insurance companies.

Services vary and could include:

- Arrangement of special needs for people with disabilities or elderly travelers;
- Booking reservations;
- Delivery of tickets and itineraries to clients;
- Selling tickets for tours, excursions, or other entertainment events.

This classification includes clerical office and sales staff who travel from one office to another.

5301-21 Word processing ((~~or~~)), secretarial, or tutoring services

Applies to establishments engaged in providing word processing or secretarial services to others. Services include, but are not limited to:

- Correcting assignments;
- Desktop publishing;
- Dictation and transcription services;
- Instruction;
- Making copies of documents;
- Student assessments;
- Typing/compiling reports, proposals, resumes, or correspondence;
- Testing;
- Sending faxes.

((~~A pickup and delivery service may be offered.~~)) This classification includes clerical office and outside ((~~sales~~)) personnel who travel from one office or instructional environment to another.

Excluded operations: Classification **5301-21** excludes:

- Tutoring programs operated by schools, libraries, and any other organization or enterprise classified 6103 and/or 6104.

Note: WAC 296-17-31017 multiple classifications must be applied when more than one basic classification is assigned.

Special note: This classification is limited to employers engaged in such services being provided to the general public. This is a services only classification and does not include retailing or store operations, nor is this classification to be assigned to employers setting up separate business operations to manage other commonly owned or operated business undertakings unless coincidentally the other operations are also subject to this classification.

AMENDATORY SECTION (Amending WSR 07-01-014, filed 12/8/06, effective 12/8/06)

WAC 296-17A-6108 Classification 6108.

~~6108-00 ((Convalescent or nursing homes, rest homes, and homes for the aged~~

~~Applies to establishments engaged in providing various levels of health care, depending on a patient's needs. Convalescent or nursing homes are state licensed institutions. The extent of professional or medical services provided ranges from complete medical care for postoperative patients and patients requiring extensive nursing care due to illnesses such as terminal cancer, kidney disorders, and heart disease, to only minimal medical or professional care for other patients. Rest homes provide daily living assistance care to the aged or those with some limits on ability for self-care, but where medical care is not yet a major element. Homes for the aged provide care for people who, due to illness, physical infirmity, or advanced age, are unable to care for themselves and who need nursing and/or health-related care, but do not require the degree of care and treatment that a skilled or intermediate care facility is designed to provide. Patients in homes for the aged, because of their mental or physical condition, require some nursing care, including the administering of medications and treatments, or the supervision of self-administered medications in accordance with a physician's orders. Generally these homes will employ therapists, registered nurses, practical nurses, nurses-aides and orderlies to provide the necessary medical care to their patients. The homes also may employ cooks, waitresses, maids, maintenance personnel, social workers and recreational directors, but usually do not employ a resident physician, although they may have arrangements with physicians who are on call for emergencies.~~

~~This classification excludes boarding houses which are to be reported separately in classification 6509.)) **Nursing homes and skilled nursing centers**~~

Classification 6108 applies to skilled nursing facilities (SNF). This includes nursing homes, rehabilitation centers, and similar facilities. While the level of care is less urgent than for patients requiring hospitalization, SNFs, such as nursing homes, provide 24-hour supervised nursing care. They also provide personal care, therapy, nutritional management, organized activities, and social services to individuals

unable to care for themselves due to injury, illness, or advanced age. These facilities are inspected and licensed by the Washington department of social and health services (DSHS); their administrators are licensed by the Washington department of health (DOH).

Types of workers employed in nursing homes often include, but are not limited to:

- Activity directors;
- Administrative staff;
- Caregivers;
- Chaplains;
- Cooks and chefs;
- Dietary aides;
- Dieticians;
- Dishwashers;
- Housekeepers;
- Janitors;
- Laundry workers;
- Lawn care workers;
- Maintenance personnel;
- Nurses' aides and assistants;
- Practical nurses;
- Registered nurses;
- Social workers;
- Therapists and therapists' assistants.

Medical services provided to residents generally include:

- Checking and monitoring for wellness;
- Dispensing medicine;
- Medical exams;
- Rehabilitative therapies;
- Total nursing care due to illness, injury, or surgery.

Personal care provided to residents may include performing or assisting with:

- Bathing;
- Brushing teeth or hair;
- Dressing;
- Feeding;
- Shaving.

This classification excludes:

• Residences providing varying levels of medical services or basic personal care but not licensed by DSHS as SNF or nursing home, that are to be reported separately in classification **6509**.

• Hospitals inspected and licensed by the DOH which are classified in **6105, 6120, 6121, 7200, or 7400** (assigned only by the hospital underwriter).

• Home care providers working in their clients' homes who are to be reported separately in classification **6511** or **6512**.

• Home health and nursing providers working in their clients' homes who are to be reported separately in classification **6110**.

For administrative purposes, classification **6108** is divided into the following subclassification(s):

6108-00 DSHS licensed nursing homes.

AMENDATORY SECTION (Amending WSR 07-01-014, filed 12/8/06, effective 12/8/06)

WAC 296-17A-6205 Classification 6205.

6205-00 Clubs, N.O.C.

((Applies to establishments engaged in operating clubs not covered by another classification (N.O.C.). Types of clubs contemplated by this classification include, but are not limited to, fraternal, special interest, or social clubs and clubs whose interests revolve around sports activities such as golf, tennis, boating, skiing, fishing, and swimming. The facilities and services offered vary depending on the type and size of the club. Even in an organization that has several locations, the facilities may vary greatly from a simple bar and snack food operation to a large restaurant with dancing areas, gymnasiums, and saunas. These types of clubs charge membership fees and dues as opposed to clubs or halls in classification 6607 which are open to the public. This classification includes all food and beverage operations.

This classification excludes YMCAs and boys/girls clubs which are to be reported separately in classification 6203; health clubs and gymnasiums which are to be reported separately in classification 6204; golf courses which are to be reported separately in classification 6206; and community and social centers which are to be reported separately in classification 6607-)) Applies to clubs not specifically described by another classification. All clubs have members, and most clubs charge membership fees or dues (as opposed to clubs or halls in classification **6607** which are open to the public). The facilities and services offered vary depending on the type and size of the club. A club's operations may be very simple with few services, or it may have many facilities and provide a range of services, such as:

- Bars;
- Restaurants;
- Recreation and activity rooms;
- Conference space;
- Ball rooms;
- Theaters;
- Snack or juice counters;
- Gymnasiums;
- Pools or saunas;
- Golf courses;
- Libraries;
- Meeting rooms;
- Study rooms;
- Lounge areas;
- Overnight accommodations.

Examples of clubs classified in **6205** include:

- Fraternal organizations;
- Country clubs;
- Special interest clubs;
- Social clubs;
- Student fraternities and sororities;
- Sporting clubs, such as:
 - Golf;
 - Tennis;
 - Skiing;
 - Fishing;
 - Sailing;
 - Swimming;
 - Yachting.

This classification excludes:

• YMCAs and boys/girls clubs which are to be reported separately in classification 6203;

• Health facilities and gymnasiums open to the public (even if charging membership fees) which are to be reported separately in classification 6204;

• Golf courses which are to be reported separately in classification 6206; and

• Community and social centers, open to the public, which are to be reported separately in classification 6607.

For administrative purposes, classification 6205 is divided into the following subclassification(s):

6205-00 Clubs, N.O.C.

AMENDATORY SECTION (Amending WSR 14-17-085, filed 8/19/14, effective 9/19/14)

WAC 296-17A-6509 Classification 6509.

~~((6509-04 Boarding homes and centers, N.O.C., adult family homes, rooming houses, foster homes, and orphanages~~

~~Applies to establishments engaged in providing residential and social care for children, aged, and special categories of persons who are ambulatory and for whom medical care is not a major element. This classification includes, but is not limited to, alcohol and drug rehabilitation centers, shelters for the homeless, safe houses for abused women and children, orphanages, homes for people with disabilities, adult family homes, and group homes as well as halfway homes for delinquents and offenders. Alzheimer care facilities are also included in this classification. Work contemplated by this classification includes meal service, linen service, housekeeping and transportation. Medical care includes only the administration of drugs.~~

~~This classification excludes convalescent, assisted living, and nursing homes which are to be reported separately in classification 6108.~~

~~6509-05 Fraternity or sorority houses~~

~~Applies to establishments providing living accommodations to *only* those college and university students who are members of the fraternity or sorority. Fraternities and sororities operate as independent political, economic and social organizations within the guidelines of the college. Fraternity and sorority houses normally have all the amenities of a home kitchen, living room, dining room, bedrooms and bathrooms. Chapter houses may also have a party room with floor space for social functions and a Chapter room which are a combination library, study, meeting and trophy room. Employments contemplated by this classification includes house directors who supervise and manage facility, cooks, helpers and facilities maintenance.~~

~~6509-07 Retirement centers~~

~~Applies to establishments engaged in operating retirement centers which cater to the elderly by offering an independent life style in a communal environment. Differing from a boarding home, a retirement center will usually offer a studio, one bedroom or two bedroom apartments as opposed to a single room. Most offer a full service dining~~

~~area for all meals, exercise programs for individuals or groups, a hairdresser, gift shop, housekeeping/laundry service, a full social/activity program, security, as well as assisted living services. Assisted living services, if offered, include, but are not limited to, assistance in maintaining the resident's schedule for prescription medication, transportation for medical appointments, and 24 hour on-call emergency assistance. On-call emergency services may be provided by a full-time nurse who can assess situations and summon a doctor or ambulance as necessary.~~

~~**Special note:** Residents of a retirement center are capable of an independent lifestyle and do not require an on-site physician or personal care services. Businesses engaged in providing temporary or permanent residences which provide various levels of medical and *personal care services such as feeding, bathing, and personal hygiene* are to be reported separately in classification 6108.)~~ **6509 Assisted living and group homes**

Classification 6509 applies to facilities with residents who do not require 24-hour nursing care, but often need some degree of medical monitoring and oversight, personal care, treatment, training, or supervision. Residents may need assistance due to illness, advanced age, physical or mental disabilities, dementia, homelessness or youth at risk, mental health concerns, or chemical dependency. Facilities in this classification generally provide residents a meal plan, but may also provide laundry, housekeeping, van or bus service, life or work skills training, therapy, recreational activities, social services, or even amenities such as barbers or beauticians. Most facilities in this classification are inspected and licensed by the department of social and health services (DSHS), or the department of health (DOH).

Examples of facilities in classification 6509 include:

- Adult family homes;
- Assisted living facilities;
- Continuing care retirement communities;
- Enhanced services facilities;
- Homeless shelters;
- Independent living centers;
- Intermediate care facilities;
- Hospice care centers;
- Residential treatment facilities;
- Retirement communities;
- Safe houses for victims of domestic violence;
- Transitional housing (halfway houses) for persons previously in a treatment facility or incarcerated.

Note: Some residences included in classification 6509, such as a retirement community, may not require any special facilities license from DSHS or DOH.

Types of workers employed in assisted living and group homes often include, but are not limited to:

- Activity directors;
- Caregivers;
- Cooks and chefs;
- Counselors;
- Dietary aides;
- Dieticians;

- Dishwashers;
- Drivers;
- Janitors;
- Housekeepers;
- Laundry workers;
- Lawn care workers;
- Maintenance personnel;
- Nurses;
- Nurses' aides and assistants;
- Resident assistants;
- Social workers;
- Therapists and therapists' assistants;
- Wait staff.

Medical services provided to residents in classification 6509 may include:

• Assessments for mental health, chemical abuse, or basic skills;

- Checking and monitoring for wellness;
- Dispensing medicine;
- Rehabilitative therapies;
- Physical examinations.

Personal care provided to residents may include assistance with:

- Bathing;
- Brushing teeth or hair;
- Dressing;
- Feeding;
- Shaving.

Note: Some residences may offer additional services such as haircuts, pedicures, manicures, hairstyling, eye and hearing exams, and other services not normally associated with care facilities. These services are often performed by independent contractors.

This classification excludes:

- DSHS licensed nursing homes and skilled nursing facilities that are reported in classification 6108.
- Fraternity or sorority houses that are reported in classification 6205.
- Home care providers working in their clients' homes who are to be reported in classification 6511 or 6512.
- Home health and nursing providers working in their clients' homes who are reported in classification 6110.
- Retirement communities without any services or meal plans. Generally these are apartment buildings or condominiums that simply restrict the occupants to age fifty-five or above, and are classified in 4910.

For administrative purposes, classification 6509 is divided into the following subclassification(s):

6509-04 Adult family homes, group homes, treatment centers, safe houses, shelters, halfway houses, and similar facilities not specifically assigned to another subclassification, N.O.C.

6509-07 Assisted living facilities, and retirement and continuing care communities.

WSR 17-10-060
PERMANENT RULES
DEPARTMENT OF
LABOR AND INDUSTRIES

[Filed May 2, 2017, 10:33 a.m., effective July 1, 2017]

Effective Date of Rule: July 1, 2017.

Purpose: This rule updates conversion factors provided in WAC 296-20-135 and maximum daily fees provided in WAC 296-23-220 and 296-23-230 for certain professional health care services for injured workers. Rule changes are necessary to maintain current overall fees for health care services, which are published annually in the medical aid rules and fee schedules. These rules increase the resource based relative value scale, anesthesia conversion factors and the maximum daily caps to be consistent with the changes for other professional fees resulting from increases in the relative value units published by the Centers for Medicare and Medicaid Services.

Citation of Existing Rules Affected by this Order: WAC 296-20-135, 296-23-220, and 296-23-230.

Statutory Authority for Adoption: RCW 51.04.020(1) and 51.04.030.

Adopted under notice filed as WSR 17-05-086 on February 14, 2017.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 3, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 3, Repealed 0.

Date Adopted: May 2, 2017.

Joel Sacks
Director

AMENDATORY SECTION (Amending WSR 16-10-084, filed 5/3/16, effective 7/1/16)

WAC 296-20-135 Conversion factors. (1) Conversion factors are used to calculate payment levels for services reimbursed under the Washington resource based relative value scale (RBRVS), and for anesthesia services payable with base and time units.

(2) **Washington RBRVS** services have a conversion factor of (~~(\$61.52)~~) \$63.25. The fee schedules list the reimbursement levels for these services.

(3) **Anesthesia services** that are paid with base and time units have a conversion factor of (~~(\$3.41)~~) \$3.44 per minute, which is equivalent to (~~(\$51.15)~~) \$51.60 per 15 minutes. The

base units and payment policies can be found in the fee schedules.

AMENDATORY SECTION (Amending WSR 16-10-084, filed 5/3/16, effective 7/1/16)

WAC 296-23-220 Physical therapy rules. Practitioners should refer to WAC 296-20-010 through 296-20-125 for general information and rules pertaining to the care of workers.

Refer to WAC 296-20-132 and 296-20-135 regarding the use of conversion factors.

All supplies and materials must be billed using HCPCS Level II codes. Refer to chapter 296-21 WAC for additional information. HCPCS codes are listed in the fee schedules.

Refer to chapter 296-20 WAC (WAC 296-20-125) and to the department's billing instructions for additional information.

Physical therapy treatment will be reimbursed only when ordered by the worker's attending doctor and rendered by a licensed physical therapist, a physical therapist assistant serving under the direction of a licensed physical therapist as required in RCW 18.74.180 (3)(a), or a licensed athletic trainer serving under the direction of a licensed physical therapist as required in RCW 18.250.010 (4)(a)(v). In addition, physician assistants may order physical therapy under these rules for the attending doctor. Doctors rendering physical therapy should refer to WAC 296-21-290.

The department or self-insurer will review the quality and medical necessity of physical therapy services provided to workers. Practitioners should refer to WAC 296-20-01002 for the department's rules regarding medical necessity and to WAC 296-20-024 for the department's rules regarding utilization review and quality assurance.

The department or self-insurer will pay for a maximum of one physical therapy visit per day. When multiple treatments (different billing codes) are performed on one day, the department or self-insurer will pay either the sum of the individual fee maximums, the provider's usual and customary charge, or ~~\$(+25.68)~~ 126.94 whichever is less. These limits will not apply to physical therapy that is rendered as part of a physical capacities evaluation, work hardening program, or pain management program, provided a qualified representative of the department or self-insurer has authorized the service.

The department will publish specific billing instructions, utilization review guidelines, and reporting requirements for physical therapists who render care to workers.

Use of diapulse or similar machines on workers is not authorized. See WAC 296-20-03002 for further information.

A physical therapy progress report must be submitted to the attending doctor and the department or the self-insurer following twelve treatment visits or one month, whichever occurs first. Physical therapy treatment beyond initial twelve treatments will be authorized only upon substantiation of improvement in the worker's condition. An outline of the proposed treatment program, the expected restoration goals, and the expected length of treatment will be required.

Physical therapy services rendered in the home and/or places other than the practitioner's usual and customary

office, clinic, or business facilities will be allowed only upon prior authorization by the department or self-insurer.

No inpatient physical therapy treatment will be allowed when such treatment constitutes the only or major treatment received by the worker. See WAC 296-20-030 for further information.

The department may discount maximum fees for treatment performed on a group basis in cases where the treatment provided consists of a nonindividualized course of therapy (e.g., pool therapy; group aerobics; and back classes).

Biofeedback treatment may be rendered on doctor's orders only. The extent of biofeedback treatment is limited to those procedures allowed within the scope of practice of a licensed physical therapist. See chapter 296-21 WAC for rules pertaining to conditions authorized and report requirements.

Billing codes and reimbursement levels are listed in the fee schedules.

AMENDATORY SECTION (Amending WSR 16-10-084, filed 5/3/16, effective 7/1/16)

WAC 296-23-230 Occupational therapy rules. Practitioners should refer to WAC 296-20-010 through 296-20-125 for general information and rules pertaining to the care of workers.

Refer to WAC 296-20-132 and 296-20-135 for information regarding the conversion factors.

All supplies and materials must be billed using HCPCS Level II codes, refer to the department's billing instructions for additional information.

Occupational therapy treatment will be reimbursed only when ordered by the worker's attending doctor and rendered by a licensed occupational therapist or an occupational therapist assistant serving under the direction of a licensed occupational therapist. In addition, physician assistants may order occupational therapy under these rules for the attending doctor. Vocational counselors assigned to injured workers by the department or self-insurer may request an occupational therapy evaluation. However, occupational therapy treatment must be ordered by the worker's attending doctor or by the physician assistant.

An occupational therapy progress report must be submitted to the attending doctor and the department or self-insurer following twelve treatment visits or one month, whichever occurs first. Occupational therapy treatment beyond the initial twelve treatments will be authorized only upon substantiation of improvement in the worker's condition. An outline of the proposed treatment program, the expected restoration goals, and the expected length of treatment will be required.

The department or self-insurer will review the quality and medical necessity of occupational therapy services. Practitioners should refer to WAC 296-20-01002 for the department's definition of medically necessary and to WAC 296-20-024 for the department's rules regarding utilization review and quality assurance.

The department will pay for a maximum of one occupational therapy visit per day. When multiple treatments (different billing codes) are performed on one day, the department or self-insurer will pay either the sum of the individual fee

maximums, the provider's usual and customary charge, or \$((125.68)) 126.94 whichever is less. These limits will not apply to occupational therapy which is rendered as part of a physical capacities evaluation, work hardening program, or pain management program, provided a qualified representative of the department or self-insurer has authorized the service.

The department will publish specific billing instructions, utilization review guidelines, and reporting requirements for occupational therapists who render care to workers.

Occupational therapy services rendered in the worker's home and/or places other than the practitioner's usual and customary office, clinic, or business facility will be allowed only upon prior authorization by the department or self-insurer.

No inpatient occupational therapy treatment will be allowed when such treatment constitutes the only or major treatment received by the worker. See WAC 296-20-030 for further information.

The department may discount maximum fees for treatment performed on a group basis in cases where the treatment provided consists of a nonindividualized course of therapy (e.g., pool therapy; group aerobics; and back classes).

Billing codes, reimbursement levels, and supporting policies for occupational therapy services are listed in the fee schedules.

WSR 17-10-062
PERMANENT RULES
BUILDING CODE COUNCIL

[Filed May 2, 2017, 1:56 p.m., effective June 2, 2017]

Effective Date of Rule: Thirty-one days after filing.

Purpose: **Makes changes to the commercial energy portion of the Washington State Energy Code for clarity, along with some editorial changes.** Includes Sections C202.12, the definition for Low voltage dry-type distribution transformer; C402.1.5.1, Component U-factors; Table C403.2.3(1A), Minimum efficiency standards for electrically operated unitary air conditioners and condensing units; Table C403.2.3(8), Minimum efficiency standards for heat rejection equipment; C403.2.11.5, Fan airflow control; C403.4.3.1, Fan speed control; C403.4.6, Hot gas bypass limitation; C403.7, High efficiency VAV systems (Item 14); C405.6, Electrical transformers.

Citation of Existing Rules Affected by this Order: Amending WAC 51-11C-20212, 51-11C-40215, 51-11C-403231, 51-11C-403238, 51-11C-403291, 51-11C-40344, 51-11C-40347, 51-11C-40360, and 51-11C-40507.

Statutory Authority for Adoption: RCW 19.27A.025, 19.27A.045, 19.27A.160.

Other Authority: RCW 19.27.074.

Adopted under notice filed as WSR 17-04-086 on January 31, 2017.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 25, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 9, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: April 21, 2017.

Steve K. Simpson
Council Chair

AMENDATORY SECTION (Amending WSR 16-24-070, filed 12/6/16, effective 5/1/17)

WAC 51-11C-20212 Section C202.12—L.

LABELED. Equipment, materials or products to which have been affixed a label, seal, symbol or other identifying mark of a nationally recognized testing laboratory, inspection agency or other organization concerned with product evaluation that maintains periodic inspection of the production of the above-labeled items and whose labeling indicates either that the equipment, material or product meets identified standards or has been tested and found suitable for a specified purpose.

LINER SYSTEM (LS). A system that includes the following:

1. A continuous vapor barrier liner membrane that is installed below the purlins and that is uninterrupted by framing members.

2. An uncompressed, unfaced insulation resting on top of the liner membrane and located between the purlins.

For multilayer installations, the last rated *R*-value of insulation is for unfaced insulation draped over purlins and then compressed when the metal roof panels are attached.

LISTED. Equipment, materials, products or services included in a list published by an organization acceptable to the *code official* and concerned with evaluation of products or services that maintains periodic inspection of production of *listed* equipment or materials or periodic evaluation of services and whose listing states either that the equipment, material, product or service meets identified standards or has been tested and found suitable for a specified purpose.

LOW-SLOPED ROOF. A roof having a slope less than 2 units vertical in 12 units horizontal.

LOW-VOLTAGE DRY-TYPE DISTRIBUTION TRANSFORMER. A transformer that is air-cooled, does not use oil as a coolant, has an input voltage less than or equal to 600 volts and is rated for operation at a frequency of 60 hertz.

LOW-VOLTAGE LIGHTING. A lighting system consisting of an isolating power supply, the low voltage luminaires, and associated equipment that are all identified for the use. The output circuits of the power supply operate at 30 volts (42.4 volts peak) or less under all load conditions.

LUMINAIRE. A complete lighting unit consisting of a lamp or lamps together with the housing designed to distribute the light, position and protect the lamps, and connect the lamps to the power supply.

LUMINAIRE-LEVEL LIGHTING CONTROL. A lighting system consisting of one or more luminaire(s) each with embedded lighting control logic, occupancy and ambient light sensors, local or central wireless networking capabilities, and local override switching capability.

AMENDATORY SECTION (Amending WSR 16-24-070, filed 12/6/16, effective 5/1/17)

WAC 51-11C-40215 Section C402.1.5—Component performance alternative.

C402.1.5 Component performance alternative. Building envelope values and fenestration areas determined in accordance with Equation 4-2 shall be permitted in lieu of compliance with the *U*-factors and *F*-factors in Table C402.1.4 and C402.4 and the maximum allowable fenestration areas in Section C402.4.1.

Equation 4-2

$$A + B + C + D = \leq \text{Zero}$$

Where:

A = Sum of the (UA Dif) values for each distinct assembly type of the building thermal envelope, other than slabs on grade

- UA Dif = UA Proposed - UA Table
- UA Proposed = Proposed *U*-value x Area
- UA Table = (*U*-factor from Table C402.1.4 or C402.4) x Area

B = Sum of the (FL Dif) values for each distinct slab on grade perimeter condition of the building thermal envelope

- FL Dif = FL Proposed - FL Table
- FL Proposed = Proposed *F*-value x Perimeter length
- FL Table = (*F*-factor specified in Table C402.1.4) x Perimeter length

The maximum allowed prescriptive vertical fenestration area, identified as "Vertical Fenestration Area allowed" in factor CA below, as a percent of the gross above-grade wall area ratio is either:

1. 30%
2. 40% if the building complies with Section C402.4.1.1 or Section C402.1.4.1; or
3. 40% if the *U*-values used in calculating A for vertical fenestration are taken from Section C402.4.1.3 rather than Table C402.4

Where the proposed vertical fenestration area is less than or equal to the maximum allowed prescriptive vertical fenestration area, the value of C (Excess Vertical Glazing Value) shall be zero. Otherwise:

- C = (CA x UV) - (CA x U_{Wall}), but not less than zero
- CA = (Proposed Vertical Fenestration Area) - (Vertical Fenestration Area allowed)
- UA Wall = Sum of the (UA Proposed) values for each opaque assembly of the exterior wall
- UAW = Sum of the (UA proposed) values for each above-grade wall assembly
- U_{Wall} = UAW/sum of wall area (excludes vertical fenestration area)
- UAV = Sum of the (UA Proposed) values for each vertical fenestration assembly
- UV = UAV/total vertical fenestration area

Where the proposed skylight area is less than or equal to the skylight area allowed by Section C402.4.1, the value of D (Excess Skylight Value) shall be zero. Otherwise:

- D = (DA x US) - (DA x U_{Roof}), but not less than zero
- DA = (Proposed Skylight Area) - (Allowable Skylight Area from Section C402.4.1)
- UAR = Sum of the (UA Proposed) values for each roof assembly
- U_{Roof} = UAR/sum of roof area (excludes skylight area)
- UAS = Sum of the (UA Proposed) values for each skylight assembly
- US = UAS/total skylight area

C402.1.5.1 Component *U*-factors. The *U*-factors for typical construction assemblies are included in Chapter 3 and Appendix A. These values shall be used for all calculations. Where proposed construction assemblies are not represented in Chapter 3 or Appendix A, values shall be calculated in accordance with the ASHRAE *Handbook—Fundamentals*, using the framing factors listed in Appendix A.

For envelope assemblies containing metal framing, the *U*-factor shall be determined by one of the following methods:

1. Results of laboratory measurements according to acceptable methods of test.
2. ASHRAE *Handbook—Fundamentals* where the metal framing is bonded on one or both sides to a metal skin or covering.
3. The zone method as provided in ASHRAE *Handbook—Fundamentals*.
4. Effective framing/cavity *R*-values as provided in Appendix A.

When return air ceiling plenums are employed, the roof/ceiling assembly shall:

a. For thermal transmittance purposes, not include the ceiling proper nor the plenum space as part of the assembly; and

b. For gross area purposes, be based upon the interior face of the upper plenum surface.

5. Tables in ASHRAE ((90.1-2010)) 90.1 Normative Appendix A.

C402.1.5.2 SHGC rate calculations. Solar heat gain coefficient shall comply with Table C402.4. The target SHGCA_t and the proposed SHGCA_p shall be calculated using Equations 4-3 and 4-4 and the corresponding areas and SHGCs from Table C402.4.

Equation 4-3—Target SHGCA_t

**Equation C402-3
Target SHGCA_t**

$$SHGCA_t = SHGC_{ogt}(A_{ogt}) + SHGC_{vgt}(A_{vgt} + A_{vgmt} + A_{vgmot} + A_{vgdt})$$

Where:

SHGCA_t = The target combined solar heat gain of the target fenestration area.

SHGC_{ogt} = The solar heat gain coefficient for skylight fenestration found in Table C402.4.

A_{ogt} = The proposed skylight area.

SHGC_{vgt} = The solar heat gain coefficient for vertical fenestration found in Table C402.4 which corresponds to the proposed total fenestration area as a percentage of gross exterior wall.

A_{vgt} = The proposed vertical fenestration area with nonmetal framing.

A_{vgmt} = The proposed vertical fenestration area with fixed metal framing.

A_{vgmot} = The proposed vertical fenestration area with operable metal framing.

A_{vgdt} = The proposed vertical fenestration area of entrance doors.

NOTE: The vertical fenestration area does not include opaque doors and opaque spandrel panels.

**Equation 4-4
Proposed SHGCA_p**

$$SHGCA_p = SHGC_{og}A_{og} + SHGC_{vg}A_{vg}$$

Where:

SHGCA_t = The combined proposed solar heat gain of the proposed fenestration area.

SHGC_{og} = The solar heat gain coefficient of the skylights.

A_{og} = The skylight area.

SHGC_{vg} = The solar heat gain coefficient of the vertical fenestration.

A_{vg} = The vertical fenestration area.

NOTE: The vertical fenestration area does not include opaque doors and opaque spandrel panels.

AMENDATORY SECTION (Amending WSR 16-03-072, filed 1/19/16, effective 7/1/16)

WAC 51-11C-403231 Table C403.2.3(1)—Minimum efficiency requirements—Electrically operated unitary air conditioners and condensing units.

**Table C403.2.3(1)A
Minimum Efficiency Requirements—Electrically Operated Unitary Air Conditioners and Condensing Units**

Equipment Type	Size Category	Heating Section Type	Subcategory or Rating Condition	Minimum Efficiency	Test Procedure ^A
Air conditioners, air cooled	< 65,000 Btu/h ^b	All	Split System	13.0 SEER	AHRI 210/240
			Single Package	14.0 SEER	
Through-the-wall (air cooled)	≤ 30,000 Btu/h ^b	All	Split system	12.0 SEER	
			Single Package	12.0 SEER	
Small duct high velocity, air cooled	< 65,000 Btu/h ^b	All	Split system	11.0 SEER	

Equipment Type	Size Category	Heating Section Type	Subcategory or Rating Condition	Minimum Efficiency	Test Procedure ^A	
Air conditioners, air cooled	≥ 65,000 Btu/h and < 135,000 Btu/h	Electric Resistance (or None)	Split System and Single Package	11.2 EER 12.9 IEER	AHRI 210/240	
		All other	Split System and Single Package	11.0 EER 12.7 IEER		
	≥ 135,000 Btu/h and < 240,000 Btu/h	Electric Resistance (or None)	Split System and Single Package	11.0 EER 12.4 IEER		
		All other	Split System and Single Package	10.8 EER 12.2 IEER		
	≥ 240,000 Btu/h and < 760,000 Btu/h	Electric Resistance (or None)	Split System and Single Package	10.0 EER 11.6 IEER		
		All other	Split System and Single Package	9.8 EER 11.4 IEER		
	≥ 760,000 Btu/h	Electric Resistance (or None)	Split System and Single Package	9.7 EER 11.2 IEER		
		All other	Split System and Single Package	9.5 EER 11.6 IEER		
Air conditioners, water cooled	< 65,000 Btu/h ^b	All	Split System and Single Package	12.1 EER 12.3 IEER	AHRI 210/240	
	≥ 65,000 Btu/h and < 135,000 Btu/h	Electric Resistance (or None)	Split System and Single Package	12.1 EER 13.9 IEER	AHRI 210/240	
		All other	Split System and Single Package	11.9 EER 13.7 IEER		
	≥ 135,000 Btu/h and < 240,000 Btu/h	Electric Resistance (or None)	Split System and Single Package	12.5 EER 13.9 IEER		
		All other	Split System and Single Package	12.3 EER 13.7 IEER		
	≥ 240,000 Btu/h and < 760,000 Btu/h	Electric Resistance (or None)	Split System and Single Package	12.4 EER 13.6 IEER		
		All other	Split System and Single Package	12.2 EER 13.4 IEER		
	≥ 760,000 Btu/h	Electric Resistance (or None)	Split System and Single Package	12.2 EER 13.5 IEER		
		All other	Split System and Single Package	12.0 EER 13.3 IEER		
	Air conditioners, evaporatively cooled	< 65,000 Btu/h ^b	All	Split System and Single Package		12.1 EER 12.3 IEER
≥ 65,000 Btu/h and < 135,000 Btu/h		Electric Resistance (or None)	Split System and Single Package	12.1 EER 12.3 IEER		AHRI 340/360
		All other	Split System and Single Package	11.9 EER 12.1 IEER		
≥ 135,000 Btu/h and < 240,000 Btu/h		Electric Resistance (or None)	Split System and Single Package	12.0 EER 12.2 IEER		
		All other	Split System and Single Package	11.8 EER 12.0 IEER		
≥ 240,000 Btu/h and < 760,000 Btu/h		Electric Resistance (or None)	Split System and Single Package	11.9 EER 12.1 IEER		
		All other	Split System and Single Package	11.7 EER 11.9 IEER		
≥ 760,000 Btu/h		Electric Resistance (or None)	Split System and Single Package	11.7 EER 11.9 EER		
		All other	Split System and Single Package	11.5 EER 11.7 EER		

Equipment Type	Size Category	Heating Section Type	Subcategory or Rating Condition	Minimum Efficiency	Test Procedure ^A
Condensing units, air cooled	≥ 135,000 Btu/h			10.5 EER 11.8 IEER	AHRI 365
Condensing units, water cooled	≥ 135,000 Btu/h			13.5 EER 14.0 IEER	
Condensing units, evaporatively cooled	≥ 135,000 Btu/h			13.5 EER 14.0 IEER	

For SI: 1 British thermal unit per hour = 0.2931 W.

- a Chapter 6 of the referenced standard contains a complete specification of the referenced test procedure, including the reference year version of the test procedure.
- b Single-phase, air-cooled air conditioners less than 65,000 Btu/h are regulated by NAECA. SEER values are those set by NAECA.

Table C403.2.3(1)B
Minimum Efficiency Requirements—Electrically Operated Variable Refrigerant Flow Air Conditioners

Equipment Type	Size Category	Heating Section Type	Subcategory or Rating Condition	Minimum Efficiency	Test Procedure
VRF Air Conditioners, Air Cooled	< 65,000 Btu/h	All	VRF Multi-Split System	13.0 SEER	AHRI 1230
	≥ 65,000 Btu/h and < 135,000 Btu/h	Electric Resistance (or none)	VRF Multi-Split System	11.2 EER 13.1 IEER (before 1/1/2017) 15.5 IEER (as of 1/1/2017)	
	≥ 135,000 Btu/h and < 240,000 Btu/h	Electric Resistance (or none)	VRF Multi-Split System	11.0 EER 12.9 IEER (before 1/1/2017) 14.9 IEER (as of 1/1/2017)	
	≥ 240,000 Btu/h	Electric Resistance (or none)	VRF Multi-split System	10.0 EER 11.6 IEER (before 1/1/2017) 13.9 IEER (as of 1/1/2017)	

Table C403.2.3(1)C
Minimum Efficiency Requirements—Electrically Operated Variable Refrigerant Flow Air-to-Air and Applied Heat Pumps

Equipment Type	Size Category	Heating Section Type	Subcategory or Rating Condition	Minimum Efficiency	Test Procedure
VRF Air Cooled (cooling mode)	< 65,000 Btu/h	All	VRF Multi-Split System	13.0 SEER	AHRI 1230
	≥ 65,000 Btu/h and < 135,000 Btu/h	Electric Resistance (or none)	VRF Multi-Split System	11.0 EER 12.9 IEER (before 1/1/2017) 14.6 IEER (as of 1/1/2017)	
	≥ 65,000 Btu/h and < 135,000 Btu/h	Electric Resistance (or none)	VRF Multi-Split System with Heat Recovery	10.8 EER 12.7 IEER (before 1/1/2017) 14.4 IEER (as of 1/1/2017)	

Equipment Type	Size Category	Heating Section Type	Subcategory or Rating Condition	Minimum Efficiency	Test Procedure
	≥ 135,000 Btu/h and < 240,000 Btu/h	Electric Resistance (or none)	VRF Multi-Split System	10.6 EER 12.3 IEER (before 1/1/2017) 13.9 IEER (as of 1/1/2017)	
	≥ 135,000 Btu/h and < 240,000 Btu/h	Electric Resistance (or none)	VRF Multi-Split System with Heat Recovery	10.4 EER 12.1 IEER (before 1/1/2017) 13.7 IEER (as of 1/1/2017)	
	≥ 240,000 Btu/h	Electric Resistance (or none)	VRF Multi-Split System	9.5 EER 11.0 IEER (before 1/1/2017) 12.7 IEER (as of 1/1/2017)	
	≥ 240,000 Btu/h	Electric Resistance (or none)	VRF Multi-Split System with Heat Recovery	9.3 EER 10.8 IEER (before 1/1/2017) 12.5 IEER (as of 1/1/2017)	
VRF Water Source (cooling mode)	< 65,000 Btu/h	All	VRF Multi-Split System <i>86°F entering water</i>	12.0 EER	AHRI 1230
	< 65,000 Btu/h	All	VRF Multi-Split System with Heat Recovery <i>86°F entering water</i>	11.8 EER	
	≥ 65,000 Btu/h and < 135,000 Btu/h	All	VRF Multi-Split System <i>86°F entering water</i>	12.0 EER	
	≥ 65,000 Btu/h and < 135,000 Btu/h	All	VRF Multi-Split System with Heat Recovery <i>86°F entering water</i>	11.8 EER	
	≥ 135,000 Btu/h	All	VRF Multi-Split System <i>86°F entering water</i>	10.0 EER	
	≥ 135,000 Btu/h	All	VRF Multi-Split System with Heat Recovery <i>86°F entering water</i>	9.8 EER	
VRF Groundwater Source (cooling mode)	< 135,000 Btu/h	All	VRF Multi-Split System <i>59°F entering water</i>	16.2 EER	AHRI 1230
	< 135,000 Btu/h	All	VRF Multi-Split System with Heat Recovery <i>59°F entering water</i>	16.0 EER	

Equipment Type	Size Category	Heating Section Type	Subcategory or Rating Condition	Minimum Efficiency	Test Procedure
	≥ 135,000 Btu/h	All	VRF Multi-Split System <i>59°F entering water</i>	13.8 EER	
	≥ 135,000 Btu/h	All	VRF Multi-Split System with Heat Recovery <i>59°F entering water</i>	13.6 EER	
VRF Ground Source (cooling mode)	< 135,000 Btu/h	All	VRF Multi-Split System <i>77°F entering water</i>	13.4 EER	AHRI 1230
	< 135,000 Btu/h	All	VRF Multi-Split System with Heat Recovery <i>77°F entering water</i>	13.2 EER	
	≥ 135,000 Btu/h	All	VRF Multi-Split System <i>77°F entering water</i>	11.0 EER	
	≥ 135,000 Btu/h	All	VRF Multi-Split System with Heat Recovery <i>77°F entering water</i>	10.8 EER	
VRF Air Cooled (heating mode)	< 65,000 Btu/h (cooling capacity)	—	VRF Multi-Split System	7.7 HSPF	AHRI 1230
	≥ 65,000 Btu/h and < 135,000 Btu/h (cooling capacity)	—	VRF Multi-Split System <i>47°F db/43°F wb outdoor air</i> <i>17°F db/15°F wb outdoor air</i>	3.3 COP 2.25 COP	
	≥ 135,000 Btu/h (cooling capacity)	—	VRF Multi-Split System <i>47°F db/43°F wb outdoor air</i> <i>17°F db/15°F wb outdoor air</i>	3.2 COP 2.05 COP	
VRF Water Source (heating mode)	< 135,000 Btu/h (cooling capacity)	—	VRF Multi-Split System <i>68°F entering water</i>	4.2 COP	AHRI 1230
	≥ 135,000 Btu/h (cooling capacity)	—	VRF Multi-Split System <i>68°F entering water</i>	3.9 COP	
VRF Groundwater Source (heating mode)	< 135,000 Btu/h (cooling capacity)	—	VRF Multi-Split System <i>50°F entering water</i>	3.6 COP	AHRI 1230
	≥ 135,000 Btu/h (cooling capacity)	—	VRF Multi-Split System <i>50°F entering water</i>	3.3 COP	

Equipment Type	Size Category	Heating Section Type	Subcategory or Rating Condition	Minimum Efficiency	Test Procedure
VRF Ground Source (heating mode)	< 135,000 Btu/h (cooling capacity)	—	VRF Multi-Split System 32°F entering water	3.1 COP	AHRI 1230
	≥ 135,000 Btu/h (cooling capacity)	—	VRF Multi-Split System 32°F entering water	2.8 COP	

AMENDATORY SECTION (Amending WSR 16-03-072, filed 1/19/16, effective 7/1/16)

WAC 51-11C-403238 Table C403.2.3(8)—Minimum efficiency requirements—Heat rejection equipment.

Table C403.2.3(8)

Minimum Efficiency Requirements—Heat Rejection Equipment

Equipment Type ^a	Total System Heat Rejection Capacity at Rated Conditions	Subcategory or Rating Condition	Performance Required ^{b,c,d,g,h}	Test Procedure ^{e,f}
Propeller or axial fan open circuit cooling towers	All	95°F Entering Water 85°F Leaving Water 75°F Entering wb	≥ 38.2 gpm/hp	CTI ATC-105 and CTI STD-201
Centrifugal fan open circuit cooling towers	All	95°F Entering Water 85°F Leaving Water 75°F Entering wb	≥ 20.0 gpm/hp	CTI ATC-105 and CTI STD-201
Propeller or axial fan closed circuit cooling towers	All	102°F Entering Water 90°F Leaving Water 75°F Entering wb	≥ 14.0 gpm/hp	CTI ATC-105S and CTI STD-201
Centrifugal closed circuit cooling towers	All	102°F Entering Water 90°F Leaving Water 75°F Entering wb	≥ 7.0 gpm/hp	CTI ATC-105S and CTI STD-201
Propeller or axial fan evaporative condensers	All	R-507A Test Fluid 165°F Entering Gas Temperature 105°F Condensing Temperature 75°F Entering wb	≥ 157,000 Btu/h • hp	CTI ATC-106
Propeller or axial fan evaporative condensers	All	Ammonia Test Fluid 140°F Entering Gas Temperature 96.3°F Condensing Temperature 75°F Entering wb	≥ 134,000 Btu/h • hp	CTI ((ATC-160)) ATC-106
Centrifugal fan evaporative condensers	All	R-507A Test Fluid 165°F Entering Gas Temperature 105°F Condensing Temperature 75°F Entering wb	≥ 135,000 Btu/h • hp	CTI ATC-106
Centrifugal fan evaporative condensers	All	Ammonia Test Fluid 140°F Entering Gas Temperature 96.3°F Condensing Temperature 75°F Entering wb	≥ 110,000 Btu/h • hp	CTI ATC-106
Air cooled condensers	All	125°F Condensing Temperature R-22 Test Fluid 190°F Entering Gas Temperature 15°F Subcooling 95°F Entering db	≥ 176,000 Btu/h • hp	AHRI 460

For SI: °C = [(°F) - 32]/1.8, L/s • kW = (gpm/hp)/(11.83), COP = (Btu/h • hp)/(2550.7).

db = dry bulb temperature, °F;
wb = wet bulb temperature, °F.

- ^a The efficiencies and test procedures for both open and closed circuit cooling towers are not applicable to hybrid cooling towers that contain a combination of wet and dry heat exchange sections.
- ^a For purposes of this table, open circuit cooling tower performance is defined as the water flow rating of the tower at the thermal rating condition listed in Table 403.2.3(8) divided by the fan nameplate rated motor power.

- c For purposes of this table, closed circuit cooling tower performance is defined as the water flow rating of the tower at the thermal rating condition listed in Table 403.2.3(8) divided by the sum of the fan nameplate rated motor power and the spray pump nameplate rated motor power.
- d For purposes of this table, air cooled condenser performance is defined as the heat rejected from the refrigerant divided by the fan nameplate rated motor power.
- e Chapter 6 of the referenced standard contains a complete specification of the referenced test procedure, including the referenced year version of the test procedure.
- f Where a certification program exists for a covered product, and it includes provisions for verification and challenge of equipment efficiency ratings, then the product shall be listed in the certification program, or, where a certification program exists for a covered product, and it includes provisions for verification and challenge of equipment efficiency ratings, but the product is not listed in the existing certification program, the ratings shall be verified by an independent laboratory test report.
- g Cooling towers shall comply with the minimum efficiency listed in the table for that specific type of tower with the capacity effect of any project-specific accessories and/or options included in the capacity of the cooling tower.
- h For purposes of this table, evaporative condenser performance is defined as the heat rejected at the specified rating condition in the table, divided by the sum of the fan motor nameplate power and the integral spray pump nameplate power.
- i Requirements for evaporative condensers are listed with ammonia (R-717) and R-507A as test fluids in this table. Evaporative condensers intended for use with halocarbon refrigerants other than R-507A must meet the minimum efficiency requirements listed above with R-507A as the test fluid.

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION (Amending WSR 16-03-072, filed 1/19/16, effective 7/1/16)

WAC 51-11C-403291 Section C403.2.11—Air system design and control.

C403.2.11 Air system design and control. Each HVAC system having a total fan system motor nameplate horsepower (hp) exceeding 5 horsepower (hp) (3.7 kW) shall comply with the provisions of Sections C403.2.11.1 through C403.2.11.3.

The air flow requirements of Section C403.2.11.5 shall apply to all fan motors. Group R occupancy exhaust fans shall also comply with Section C403.2.11.4.

C403.2.11.1 Allowable fan motor horsepower. Each HVAC system at fan system design conditions shall not exceed the allowable *fan system motor nameplate hp* (Option 1) or *fan system bhp* (Option 2) as shown in Table C403.2.11.1(1). This includes supply fans, exhaust fans, return/relief fans, and fan-powered terminal units associated with systems providing heating or cooling capability. Single *zone* variable-air-volume systems shall comply with the constant volume fan power limitation.

EXCEPTIONS:

1. Hospital, vivarium and laboratory systems that utilize flow control devices on exhaust or return to maintain space pressure relationships necessary for occupant health and safety or environmental control shall be permitted to use variable volume fan power limitation.
2. Individual exhaust fans with motor nameplate horsepower of 1 hp or less are exempt from allowable fan motor horsepower requirements.

C403.2.11.2 Motor nameplate horsepower. For each fan, the selected fan motor shall be no larger than the first available motor size greater than the brake horsepower (bhp). The fan brake horsepower (bhp) shall be indicated on the design documents to allow for compliance verification by the *code official*.

EXCEPTIONS:

1. For fans less than 6 bhp (4413 W), where the first available motor larger than the brake horsepower has a nameplate rating within 50 percent of the bhp, selection of the next larger nameplate motor size is allowed.

2. For fans 6 bhp (4413 W) and larger, where the first available motor larger than the bhp has a nameplate rating within 30 percent of the bhp, selection of the next larger nameplate motor size is allowed.

3. For fans used only in *approved* life safety applications such as smoke evacuation.

C403.2.11.3 Fan efficiency. Fans shall have a fan efficiency grade (FEG) of 67 or higher based on manufacturers' certified data, as defined by AMCA 205. The total efficiency of the fan at the design point of operation shall be within 15 percentage points of the maximum total efficiency of the fan.

EXCEPTION: The following fans are not required to have a fan efficiency grade:

1. Fans of 5 hp (3.7 kW) or less as follows:

- 1.1. Single fan with a motor nameplate horsepower of 5 hp (3.7 kW) or less, unless Exception 1.2. applies.

- 1.2. Multiple fans in series or parallel that have a combined motor nameplate horsepower of 5 hp (3.7 kW) or less and are operated as the functional equivalent of a single fan.

2. Fans that are part of equipment covered under Section C403.2.3.

3. Fans included in an equipment package certified by an *approved agency* for air or energy performance.

4. Powered wall/roof ventilators.

5. Fans outside the scope of AMCA 205.

6. Fans that are intended to operate only during emergency conditions.

C403.2.11.4 Group R occupancy exhaust fan efficacy. The Group R occupancies of the building shall be provided with ventilation that meets the requirements of the *International Mechanical Code*, as applicable, or with other approved means of ventilation. Mechanical ventilation system fans with 400 cfm or less in capacity shall meet the efficacy requirements of Table C403.2.11.4.

EXCEPTIONS:

1. Group R heat recovery ventilator and energy recovery ventilator fans that are less than 400 cfm.

2. Where whole house ventilation fans are integrated with forced-air systems that are tested and listed HVAC equipment, they shall be powered by an electronically commutated motor where required by Section C405.8.

- 3. Domestic clothes dryer booster fans, domestic range hood exhaust fans, and domestic range booster fans that operate intermittently.

C403.2.11.5 Fan airflow control. Each cooling system listed in Table C403.2.11.5 shall be designed to vary the indoor fan airflow as a function of load and shall comply with the following requirements:

1. Direct expansion (DX) and chilled water cooling units that control the capacity of the mechanical cooling directly based on space temperature shall have not fewer than two stages of fan control. Low or minimum speed shall not be greater than 66 percent of full speed. At low or minimum speed, the fan system shall draw not more than 40 percent of the fan power at full fan speed. Low or minimum speed shall be used during periods of low cooling load and ventilation-only operation.

2. Other units including DX cooling units and chilled water units that control the space temperature by modulating the airflow to the space shall have modulating fan control. Minimum speed shall be not greater than 50 percent of full speed. At minimum speed, the fan system shall draw no more than 30 percent of the power at full fan speed. Low or minimum speed shall be used during periods of low cooling load and ventilation-only operation.

3. Units that include an airside economizer in accordance with Section C403.3 shall have not fewer than two speeds of fan control during economizer operation.

- EXCEPTIONS:
- 1. Modulating fan control is not required for chilled water and evaporative cooling units with fan motors of less than 1 hp (0.746 kW) where the units are not used to provide ventilation air and the indoor fan cycles with the load.
 - 2. Where the volume of outdoor air required to comply with the ventilation requirements of the *International Mechanical Code* at low speed exceeds the air that would be delivered at the minimum speed defined in this section, the minimum speed shall be selected to provide the required ventilation air.

AMENDATORY SECTION (Amending WSR 16-03-072, filed 1/19/16, effective 7/1/16)

WAC 51-11C-40344 Section C403.4.3—Heat rejection equipment.

C403.4.3 Heat rejection equipment. Heat rejection equipment such as air-cooled condensers, dry coolers, open-circuit cooling towers, closed-circuit cooling towers and evaporative condensers used for comfort cooling applications shall comply with this section.

EXCEPTION: Heat rejection devices where energy usage is included in the equipment efficiency ratings listed in Tables C403.2.3(1)A, C403.2.3(1)B, C403.2.3(1)C, C403.2.3(2), C403.2.3(3), C403.2.3(7) and C403.2.3(9).

C403.4.3.1 Fan speed control. The fan speed shall be controlled as provided in Sections (~~C403.4.3.2.1 and C403.4.3.2.2~~) C403.4.3.1.1 and C403.4.3.1.2.

C403.4.3.1.1 Fan motors not less than 7.5 hp. Each fan powered by a motor of 7.5 hp (5.6 kW) or larger shall have controls that automatically change the fan speed to control

the leaving fluid temperature or condensing temperature/pressure of the heat rejection device.

C403.4.3.1.2 Multiple-cell heat rejection equipment. Multiple-cell heat rejection equipment with variable speed fan drives shall be controlled in both of the following manners:

- 1. To operate the maximum number of fans allowed that comply with the manufacturer's requirements for all system components.
- 2. So all fans can operate at the same fan speed required for the instantaneous cooling duty, as opposed to staged (on/off) operation. Minimum fan speed shall be the minimum allowable speed of the fan drive system in accordance with the manufacturer's recommendations.

C403.4.3.2 Limitation on centrifugal fan open-circuit cooling towers. Centrifugal fan open-circuit cooling towers with a combined rated capacity of 1,100 gpm (4164 L/m) or greater at 95°F (35°C) condenser water return, 85°F (29°C) condenser water supply, and 75°F (24°C) outdoor air wet-bulb temperature shall meet the energy efficiency requirement for axial fan open-circuit cooling towers listed in Table C403.2.3(8).

EXCEPTION: Centrifugal open-circuit cooling towers that are designed with inlet or discharge ducts or require external sound attenuation.

C403.4.3.3 Tower flow turndown. Open-circuit cooling towers used on water-cooled chiller systems that are configured with multiple- or variable-speed condenser water pumps shall be designed so that all open circuit cooling tower cells can be run in parallel with the larger of the flow that is produced by the smallest pump at its minimum expected flow rate or at 50 percent of the design flow for the cell.

AMENDATORY SECTION (Amending WSR 13-04-056, filed 2/1/13, effective 7/1/13)

WAC 51-11C-40347 Section (~~C403.4.7~~) C403.4.6—Hot gas bypass limitation.

(~~C403.4.7~~) **C403.4.6 Hot gas bypass limitation.** Cooling systems shall not use hot gas bypass or other evaporator pressure control systems unless the system is designed with multiple steps of unloading or continuous capacity modulation. The capacity of the hot gas bypass shall be limited as indicated in Table (~~C403.4.7~~) C403.4.6, as limited by Section C403.3.1.

(EXCEPTION: Unitary packaged systems with cooling capacities not greater than 90,000 Btu/h (26,379 W).))

**Table (~~C403.4.7~~) C403.4.6
Maximum Hot Gas Bypass Capacity**

Rated Capacity	Maximum Hot Gas Bypass Capacity (% of total capacity)
≤ 240,000 Btu/h	50
> 240,000 Btu/h	25

For SI: 1 British thermal unit per hour = 0.2931 W.

AMENDATORY SECTION (Amending WSR 16-13-089, filed 6/15/16, effective 7/16/16)

WAC 51-11C-40360 Section C403.6—Dedicated outdoor air systems (DOAS).

C403.6 Dedicated outdoor air systems (DOAS) (This section is optional until June 30, 2017; and becomes prescriptive as of July 1, 2017). For office, retail, education, libraries and fire stations. Outdoor air shall be provided to each occupied space by a dedicated outdoor air system (DOAS) which delivers 100 percent outdoor air without requiring operation of the heating and cooling system fans for ventilation air delivery.

- EXCEPTIONS:
1. Occupied spaces that are not ventilated by a mechanical ventilation system and are only ventilated by a natural ventilation system per Section 402 of the *International Mechanical Code*.
 2. High efficiency variable air volume (VAV) systems complying with Section C403.7. This exception shall not be used as a substitution for a DOAS per Section C406.6 or as a modification to the requirements for the Standard Reference Design per Section C407.

C403.6.1 Energy recovery ventilation with DOAS. The DOAS shall include *energy recovery ventilation* that complies with the minimum energy recovery efficiency and energy recovery bypass requirements, where applicable, of Section C403.5.1.

- EXCEPTIONS:
1. Occupied spaces under the threshold of Section C403.5 with an average occupant load greater than 25 people per 1000 square feet (93 m²) of floor area (as established in Table 403.3.1.1 of the *International Mechanical Code*) that include demand control ventilation configured to reduce outdoor air by at least 50% below design minimum ventilation rates when the actual occupancy of the space served by the system is less than the design occupancy.
 2. Systems installed for the sole purpose of providing makeup air for systems exhausting toxic, flammable, paint, or corrosive fumes or dust, dryer exhaust, or commercial kitchen hoods used for collecting and removing grease vapors and smoke.

C403.6.2 Heating/cooling system fan controls. Heating and cooling equipment fans, heating and cooling circulation pumps, and terminal unit fans shall cycle off and terminal unit primary cooling air shall be shut off when there is no call for heating or cooling in the zone.

- EXCEPTION:
- Fans used for heating and cooling using less than 0.12 watts per cfm may operate when space temperatures are within the setpoint deadband (Section C403.2.4.1.2) to provide destratification and air mixing in the space.

C403.6.3 Impracticality. Where the code official determines that full compliance with all the requirements of Sections C403.6.1 and C403.6.2 would be impractical, it is permissible to provide an approved alternate means of compliance that achieves a comparable level of energy efficiency. For the purposes of this section, impractical means that an HVAC system complying with Section C403.6 cannot effectively be utilized due to an unusual use or configuration of the building.

C403.7 High efficiency variable air volume (VAV) systems. For HVAC systems subject to the requirements of Section C403.6 but utilizing Exception 2 of that section, a high efficiency VAV system may be provided without a separate parallel DOAS when the system is designed, installed, and configured to comply with all of the following criteria (this exception shall not be used as a substitution for a DOAS per Section C406.6 or as a modification to the requirements for the Standard Reference Design per Section C407):

1. The VAV systems are provided with airside economizer per Section 403.3 without exceptions.

2. A direct-digital control (DDC) system is provided to control the VAV air handling units and associated terminal units per Section C403.2.4.12 regardless of sizing thresholds of Table C403.2.4.12.1.

3. Multiple-zone VAV systems with a minimum outdoor air requirement of 2,500 cfm (1180 L/s) or greater shall be equipped with a device capable of measuring outdoor airflow intake under all load conditions. The system shall be capable of increasing or reducing the outdoor airflow intake based on feedback from the VAV terminal units as required by Section C403.4.4.3, without exceptions, and Section C403.2.6.2 demand controlled ventilation.

4. Multiple-zone VAV systems with a minimum outdoor air requirement of 2,500 cfm (1180 L/s) or greater shall be equipped with a device capable of measuring supply airflow to the VAV terminal units under all load conditions.

5. In addition to meeting the zone isolation requirements of C403.2.4.4 a single VAV air handling unit shall not serve more than 50,000 square feet (2323 m²) unless a single floor is greater than 50,000 square feet (2323 m²) in which case the air handler is permitted to serve the entire floor.

6. The primary maximum cooling air for the VAV terminal units serving interior cooling load driven zones shall be sized for a supply air temperature that is a minimum of 5°F greater than the supply air temperature for the exterior zones in cooling.

7. Air terminal units with a minimum primary airflow setpoint of 50% or greater of the maximum primary airflow setpoint shall be sized with an inlet velocity of no greater than 900 feet per minute.

8. DDC systems be designed and configured per the guidelines set by high performance sequences of operation for HVAC systems (ASHRAE GPC 36, RP-1455).

9. Allowable fan motor horsepower shall not exceed 90% of the allowable HVAC *fan system bhp* (Option 2) as defined by Section C403.2.11.1.

10. All fan powered VAV terminal units (series or parallel) shall be provided with electronically commutated motors. The DDC system shall be configured to vary the speed of the motor as a function of the heating and cooling load in the space. Minimum speed shall not be greater than 66% of design airflow required for the greater of heating or cooling operation. Minimum speed shall be used during periods of low heating and cooling operation and ventilation-only operation.

EXCEPTION: For series fan powered terminal units where the volume of primary air required to deliver the ventilation requirements at minimum speed exceeds the air that would be delivered at the speed defined above, the minimum speed setpoint shall be configured to exceed the value required to provide the required ventilation air.

11. Fan-powered VAV terminal units shall only be permitted at perimeter zones with an envelope heating load requirement. All other VAV terminal units shall be single duct terminal units.

12. When in occupied heating or in occupied deadband between heating and cooling all fan powered VAV terminal units shall be configured to reset the primary air supply setpoint, based on the VAV air handling unit outdoor air vent fraction, to the minimum ventilation airflow required per *International Mechanical Code* without utilizing the exceptions 2, 3, or 4 of Section C403.4.4.

13. Spaces that are larger than 150 square feet (14 m²) and with an occupant load greater than or equal to 25 people per 1000 square feet (93 m²) of floor area (as established in Table 403.3.1.1 of the *International Mechanical Code*) shall be provided with all of the following features:

13.1. A dedicated VAV terminal unit capable of controlling the space temperature and minimum ventilation shall be provided.

13.2. Demand control ventilation (DCV) shall be provided that utilizes a carbon dioxide sensor to reset the ventilation setpoint of the VAV terminal unit from the design minimum to design maximum ventilation rate as required by Chapter 4 of the *International Mechanical Code*.

13.3. Occupancy sensors shall be provided that are configured to reduce the minimum ventilation rate to zero and setback room temperature setpoints by a minimum of 5°F, for both cooling and heating, when the space is unoccupied.

14. Dedicated server rooms, electronic equipment rooms, telecom rooms, or other similar spaces with cooling loads greater than 5 watts/sf shall be provided with separate, independent HVAC systems to allow the VAV air handlers to turn off during unoccupied hours in the office space and to allow the supply air temperature reset to occur.

EXCEPTION: The VAV air handling unit and VAV terminal units may be used for secondary backup cooling when there is a failure of the primary HVAC system.
(~~Additionally, server rooms, electronic equipment rooms, telecom rooms, or other similar spaces shall be provided with airside economizer per Section 403.3 without using the exceptions to Section C403.3.~~)

Additionally, server rooms, electronic equipment rooms, telecom rooms, or other similar spaces shall be provided with airside economizer per Section 403.3 without using the exceptions to Section C403.3.

EXCEPTION: Heat recovery per exception 9 of Section 403.3 may be in lieu of airside economizer for the separate, independent HVAC system.

15. HVAC system central heating or cooling plant will include a minimum of one of the following options:

15.1. VAV terminal units with hydronic heating coils connected to systems with hot water generation equipment limited to the following types of equipment: Gas-fired

hydronic boilers with a thermal efficiency, E_t , of not less than 90%, air-to-water heat pumps or heat recovery chillers.

15.2. Chilled water VAV air handling units connected to systems with chilled water generation equipment with IPLV values more than 25% higher than the minimum part load efficiencies listed in Table C403.2.3(7), in the appropriate size category, using the same test procedures. Equipment shall be listed in the appropriate certification program to qualify. The smallest chiller or compressor in the central plant shall not exceed 20% of the total central plant cooling capacity or the chilled water system shall include thermal storage sized for a minimum of 20% of the total central cooling plant capacity.

16. The DDC system shall include a fault detection and diagnostics (FDD) system complying with the following:

16.1. The following temperature sensors shall be permanently installed to monitor system operation:

16.1.1. Outside air.

16.1.2. Supply air.

16.1.3. Return air.

16.2. Temperature sensors shall have an accuracy of $\pm 2^\circ\text{F}$ (1.1°C) over the range of 40°F to 80°F (4°C to 26.7°C).

16.3. The VAV air handling unit controller shall be configured to provide system status by indicating the following:

16.3.1. Free cooling available.

16.3.2. Economizer enabled.

16.3.3. Compressor enabled.

16.3.4. Heating enabled.

16.3.5. Mixed air low limit cycle active.

16.3.6. The current value of each sensor.

16.4. The VAV air handling unit controller shall be capable of manually initiating each operating mode so that the operation of compressors, economizers, fans and the heating system can be independently tested and verified.

16.5. The VAV air handling unit shall be configured to report faults to a fault management application accessible by day-to-day operating or service personnel or annunciated locally on zone thermostats.

16.6. The VAV terminal unit shall be configured to report if the VAV inlet valve has failed by performing the following diagnostic check at a maximum interval of once a month:

16.6.1. Command VAV terminal unit primary air inlet valve closed and verify that primary airflow goes to zero.

16.6.2. Command VAV terminal unit primary air inlet valve to design airflow and verify that unit is controlling to within 10% of design airflow.

16.7. The VAV terminal unit shall be configured to report and trend when the zone is driving the following VAV air handling unit reset sequences. The building operator shall have the capability to exclude zones used in the reset sequences from the DDC control system graphical user interface:

16.7.1. Supply air temperature setpoint reset to lowest supply air temperature setpoint for cooling operation.

16.7.2. Supply air duct static pressure setpoint reset for the highest duct static pressure setpoint allowable.

16.8. The FDD system shall be configured to detect the following faults:

16.8.1. Air temperature sensor failure/fault.

16.8.2. Not economizing when the unit should be economizing.

16.8.3. Economizing when the unit should not be economizing.

16.8.4. Outdoor air or return air damper not modulating.

16.8.5. Excess outdoor air.

16.8.6 VAV terminal unit primary air valve failure.

AMENDATORY SECTION (Amending WSR 16-13-089, filed 6/15/16, effective 7/16/16)

**WAC 51-11C-40507 Section ((~~C405.7~~) C405.6—
Electrical energy consumption.**

C405.6 Electrical transformers (Mandatory). Electric transformers shall meet the minimum efficiency requirements of Table C405.6 as tested and rated in accordance with the test procedure listed in DOE 10 C.F.R. 431. The efficiency shall be verified through certification under an approved certification program or, where no certification program exists, the equipment efficiency ratings shall be supported by data furnished by the transformer manufacturer.

- EXCEPTION: The following transformers are exempt:
1. Transformers that meet the Energy Policy Act of 2005 exclusions based on the DOE 10 C.F.R. 431 definition of special purpose applications.
 2. Transformers that meet the Energy Policy Act of 2005 exclusions that are not to be used in general purpose applications based on information provided in DOE 10 C.F.R. 431.
 3. Transformers that meet the Energy Policy Act of 2005 exclusions with multiple voltage taps where the highest tap is at least 20 percent more than the lowest tap.
 4. Drive transformers.
 5. Rectifier transformers.
 6. Auto-transformers.
 7. Uninterruptible power system transformers.
 8. Impedance transformers.
 9. Regulating transformers.
 10. Sealed and nonventilating transformers.
 11. Machine tool transformer.
 12. Welding transformer.
 13. Grounding transformer.
 14. Testing transformer.

**Table C405.6
Minimum Nominal Efficiency Levels For 10 C.F.R. 431
Low Voltage Dry-Type Distribution Transformers**

Single Phase Transformers		Three Phase Transformers	
kVA ^a	Efficiency (%) ^b	kVA ^a	Efficiency (%) ^b
15	97.7	15	97.0
25	98.0	30	97.5
37.5	98.2	45	97.7
50	98.3	75	98.0
75	98.5	112.5	98.2

Single Phase Transformers		Three Phase Transformers	
100	98.6	150	98.3
167	98.7	225	98.5
250	98.8	300	98.6
333	98.9	500	98.7
		750	98.8
		1000	98.9

^a kiloVolt-Amp rating.

^b Nominal efficiencies shall be established in accordance with the DOE 10 C.F.R. 431 test procedure for low voltage dry-type transformers.

C405.7 Dwelling unit electrical energy consumption (Mandatory). Each dwelling unit located in a Group R-2 building shall have a separate electrical meter. A utility tenant meter meets this requirement. See Section C409 for additional requirements for energy metering and energy consumption management.

**WSR 17-10-063
PERMANENT RULES
BUILDING CODE COUNCIL**

[Filed May 2, 2017, 2:13 p.m., effective June 2, 2017]

Effective Date of Rule: Thirty-one days after filing.

Purpose: **Makes changes to the Residential energy portion of the Washington State Energy Code for clarity, along with some editorial changes.** Includes Sections R104.2.3, Plumbing rough-in inspection; R202, definition of Skylight; R402.1, General (envelope); R402.1.2, R-value computation; Table R402.1.1, Insulation and fenestration requirements by component (footnote C); R403.3.4, Duct leakage; R406.1, Scope (additional efficiency requirements); Table R406.2, Energy credits; R502.1.1.3, Heating and cooling systems (additions); R503.1.3, Service hot water systems (alterations).

Citation of Existing Rules Affected by this Order: Amending WAC 51-11R-10400, 51-11R-20219, 51-11R-40210, 51-11R-40211, 51-11R-40320, 51-11R-40610, 51-11R-40621, 51-11R-50200, and 51-11R-50300.

Statutory Authority for Adoption: RCW 19.27A.025, 19.27A.045, 19.27A.160.

Other Authority: RCW 19.27.074.

Adopted under notice filed as WSR 17-04-087 on January 31, 2017.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 9, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: April 21, 2017.

Steve K. Simpson
Council Chair

AMENDATORY SECTION (Amending WSR 16-02-127, filed 1/6/16, effective 7/1/16)

WAC 51-11R-10400 Section R104—Inspections.

R104.1 General. Construction or work for which a permit is required shall be subject to inspection by the *code official* or his or her designated agent, and such construction or work shall remain accessible and exposed for inspection purposes until *approved*. It shall be the duty of the permit applicant to cause the work to remain accessible and exposed for inspection purposes. Neither the *code official* nor the jurisdiction shall be liable for expense entailed in the removal or replacement of any material, product, system or building component required to allow inspection to validate compliance with this code.

R104.2 Required inspections. The *code official* or his or her designated agent, upon notification, shall make the inspections set forth in Sections R104.2.1 through R104.2.5.

R104.2.1 Footing and foundation inspection. Inspections associated with footings and foundations shall verify compliance with the code as to *R*-value, location, thickness, depth of burial and protection of insulation as required by the code and approved plans and specifications.

R104.2.2 Framing and rough-in inspection. Inspections at framing and rough-in shall be made before application of interior finish and shall verify compliance with the code as to types of insulation and corresponding *R*-values and their correct location and proper installation; fenestration properties (*U*-factor and SHGC) and proper installation; and air leakage controls as required by the code and approved plans and specifications.

R104.2.2.1 Wall insulation inspection. The building official, upon notification, shall make a wall insulation inspection in addition to those inspections required in Section R109 of the International Residential Code. This inspection shall be made after all wall and cavity insulation is in place and prior to cover.

R104.2.3 Plumbing rough-in inspection. Inspections at plumbing rough-in shall verify compliance as required by the code and approved plans and specifications as to types of insulation and corresponding *R*-values and protection, and required controls.

R104.2.4 Mechanical rough-in inspection. Inspections at mechanical rough-in shall verify compliance as required by the code and approved plans and specifications as to installed HVAC equipment type and size, required controls, system insulation and corresponding *R*-value, system air leakage

control, programmable thermostats, dampers, whole-house ventilation and minimum fan efficiency.

EXCEPTION: Systems serving multiple dwelling units shall be inspected in accordance with Section C104.2.4.

R104.2.5 Final inspection. The building shall have a final inspection and not be occupied until *approved*.

R104.3 Reinspection. A building shall be reinspected when determined necessary by the *code official*.

R104.4 Approved inspection agencies. The *code official* is authorized to accept reports of third-party inspection agencies not affiliated with the building design or construction, provided such agencies are *approved* as to qualifications and reliability relevant to the building components and systems they are inspecting.

R104.5 Inspection requests. It shall be the duty of the holder of the permit or their duly authorized agent to notify the *code official* when work is ready for inspection. It shall be the duty of the permit holder to provide access to and means for inspections of such work that are required by this code.

R104.6 Reinspection and testing. Where any work or installation does not pass an initial test or inspection, the necessary corrections shall be made so as to achieve compliance with this code. The work or installation shall then be resubmitted to the *code official* for inspection and testing.

R104.7 Approval. After the prescribed tests and inspections indicate that the work complies in all respects with this code, a notice of approval shall be issued by the *code official*.

R104.7.1 Revocation. The *code official* is authorized to, in writing, suspend or revoke a notice of approval issued under the provisions of this code wherever the certificate is issued in error, or on the basis of incorrect information supplied, or where it is determined that the building or structure, premise, or portion thereof is in violation of any ordinance or regulation or any of the provisions of this code.

AMENDATORY SECTION (Amending WSR 13-04-055, filed 2/1/13, effective 7/1/13)

WAC 51-11R-20219 Section R202.19—S.

SERVICE WATER HEATING. Supply of hot water for purposes other than comfort heating.

~~((SKYLIGHT. Glass or other transparent or translucent glazing material installed at a slope of less than 60 degrees (1.05 rad) from horizontal. Glazing material in skylights, including unit skylights, solariums, sunrooms, roofs and sloped walls is included in this definition.))~~

SLAB-ON-GRADE FLOOR. That portion of a slab floor of the building envelope that is in contact with the ground and that is either above grade or is less than or equal to 24 inches below the final elevation of the nearest exterior grade.

SMALL BUSINESS. Any business entity (including a sole proprietorship, corporation, partnership or other legal entity) which is owned and operated independently from all other businesses, which has the purpose of making a profit, and which has fifty or fewer employees.

SOLAR HEAT GAIN COEFFICIENT (SHGC). The ratio of the solar heat gain entering the space through the fenestration assembly to the incident solar radiation. Solar heat gain includes directly transmitted solar heat and absorbed solar radiation which is then reradiated, conducted or convected into the space.

STANDARD FRAMING. All framing practices not defined as "intermediate" or "advanced" shall be considered standard. (See **Advanced Framed Wall, Intermediate Framed Wall**).

STANDARD REFERENCE DESIGN. A version of the *proposed design* that meets the minimum requirements of this code and is used to determine the maximum annual energy use requirement for compliance based on total building performance.

AMENDATORY SECTION (Amending WSR 16-02-127, filed 1/6/16, effective 7/1/16)

WAC 51-11R-40210 Section R402.1—General.

R402.1 General (Prescriptive). The *building thermal envelope* shall meet the requirements of Sections R402.1.1 through R402.1.5.

EXCEPTION: The following buildings, or portions thereof, separated from the remainder of the building by *building thermal envelope* assemblies complying with this code shall be exempt from the *building thermal envelope* provisions of this code.

1. Those with a peak design rate of energy usage less than 3.4 Btu/h ft² (10.7 W/m²) or 1.0 watt/ft² ((40.7 W/m²)) of floor area for space conditioning purposes.
2. Those that do not contain *conditioned space*.
3. Greenhouses isolated from any conditioned space and not intended for occupancy.

R402.1.1 Insulation and fenestration criteria. The *building thermal envelope* shall meet the requirements of Table R402.1.1 based on the climate zone specified in Chapter 3.

R402.1.2 R-value computation. Insulation material used in layers, such as framing cavity insulation(§) or continuous insulation, shall be summed to compute the corresponding component *R*-value. The manufacturer's settled *R*-value shall

be used for blown insulation. Computed *R*-values shall not include an *R*-value for other building materials or air films. Where insulated siding is used for the purpose of complying with the continuous insulation requirements of Table R402.1.1, the manufacturer must supply an ICC Report that the *R*-factor has been certified, or use R-5 per inch for extruded polystyrene, and R-6 per inch for polyisocyanurate rigid insulation.

R402.1.3 U-factor alternative. An assembly with a *U*-factor equal to or less than that specified in Table R402.1.3 shall be permitted as an alternative to the *R*-value in Table R402.1.1.

R402.1.4 Total UA alternative. If the total *building thermal envelope* UA (sum of *U*-factor times assembly area) is less than or equal to the total UA resulting from using the *U*-factors in Table R402.1.3 (multiplied by the same assembly area as in the proposed building), the building shall be considered in compliance with Table R402.1.1. The *U*-factors for typical construction assemblies are included in Appendix A in chapter 51-11C WAC. These values shall be used for all calculations. Where proposed construction assemblies are not represented in Appendix A, values shall be calculated in accordance with the ASHRAE *Handbook of Fundamentals* using the framing factors listed in Appendix A where applicable and shall include the thermal bridging effects of framing materials. The SHGC requirements shall be met in addition to UA compliance. When using REScheck, the *U*-factors calculated by the software based on component *R*-value descriptions are acceptable. For the base building UA calculation, the maximum glazing area is 15% of the floor area.

R402.1.5 Vapor retarder. Wall assemblies in the building thermal envelope shall comply with the vapor retarder requirements of Section R702.7 of the *International Residential Code* or Section 1405.3 of the *International Building Code*, as applicable.

AMENDATORY SECTION (Amending WSR 16-02-127, filed 1/6/16, effective 7/1/16)

WAC 51-11R-40211 Table R402.1.1—Insulation and fenestration requirements by component.

TABLE R402.1.1
INSULATION AND FENESTRATION REQUIREMENTS BY COMPONENT^a

Climate Zone	Fenestration U-Factor ^b	Skylight ^b U-Factor	Glazed Fenestration SHGC ^{b, c}	Ceiling R-Value ^k	Wood Frame Wall ^{g, m, n} R-Value	Mass Wall R-Value ⁱ	Floor R-Value	Below-Grade ^{c, m} Wall R-Value	Slab ^d R-Value & Depth
5 and Marine 4	0.30	0.50	NR	49	21 int	21/ 21	30	10/15/ 21int+TB	10, 2 ft

For SI: 1 foot = 304.8 mm, ci = continuous insulation, int = intermediate framing.

^a *R*-values are minimums. *U*-factors and SHGC are maximums. When insulation is installed in a cavity which is less than the label or design thickness of the insulation, the compressed *R*-value of the insulation from Appendix Table A101.4 shall not be less than the *R*-value specified in the table.

^b The fenestration *U*-factor column excludes skylights. The SHGC column applies to all glazed fenestration.

^c "10/15/21+TB" means R-10 continuous insulation on the exterior of the wall, or R-15 on the continuous insulation on the interior of the wall, or R-21 cavity insulation plus a thermal break between the slab and the basement wall at the interior of the basement wall. "10/15/21+TB" shall be permitted to be met with R-13 cavity insulation on the interior of the basement wall plus R-5 continuous insulation on the interior or exterior of the wall. ("~~10/13~~" means R-10 continuous insulation on the interior or exterior of the home or R-13 cavity insulation at the interior of the basement wall.) "TB" means thermal break between floor slab and basement wall.

^d R-10 continuous insulation is required under heated slab on grade floors. See R402.2.9.1.

^e There are no SHGC requirements in the Marine Zone.

^f Reserved.

^g Reserved.

^h Reserved.

ⁱ The second R-value applies when more than half the insulation is on the interior of the mass wall.

^j Reserved.

^k For single rafter- or joist-vaulted ceilings, the insulation may be reduced to R-38.

^l Reserved.

^m Int. (intermediate framing) denotes standard framing 16 inches on center with headers insulated with a minimum of R-10 insulation.

ⁿ Log and solid timber walls with a minimum average thickness of 3.5 inches are exempt from this insulation requirement.

AMENDATORY SECTION (Amending WSR 16-02-127, filed 1/6/16, effective 7/1/16)

WAC 51-11R-40320 Section R403.3—Ducts.

R403.3 Ducts. Ducts and air handlers shall be in accordance with Sections R403.3.1 through R403.3.5.

R403.3.1 Insulation (Prescriptive). Ducts outside the building thermal envelope shall be insulated to a minimum of R-8. Ducts within a concrete slab or in the ground shall be insulated to R-10 with insulation designed to be used below grade.

EXCEPTION: Ducts or portions thereof located completely inside the *building thermal envelope*. Ducts located in crawl spaces do not qualify for this exception.

R403.3.2 Sealing (Mandatory). Ducts, air handlers, and filter boxes shall be sealed. Joints and seams shall comply with either the *International Mechanical Code* or *International Residential Code*, as applicable.

EXCEPTIONS:

1. Air-impermeable spray foam products shall be permitted to be applied without additional joint seals.
2. For ducts having a static pressure classification of less than 2 inches of water column (500 Pa), additional closure systems shall not be required for continuously welded joints and seams, and locking-type joints and seams of other than the snap-lock and button-lock types.

R403.3.2.1 Sealed air handler. Air handlers shall have a manufacturer's designation for an air leakage of no more than 2 percent of the design air flow rate when tested in accordance with ASHRAE 193.

R403.3.3 Duct testing (Mandatory). Ducts shall be leak tested in accordance with WSU RS-33, using the maximum duct leakage rates specified.

EXCEPTION: The total leakage or leakage to the outdoors test is not required for ducts and air handlers located entirely within the building thermal envelope. For forced air ducts, a maximum of 10 linear feet of return ducts and 5 linear feet of supply ducts may be located outside the conditioned space. All metallic ducts located outside the conditioned space must have both transverse and longitudinal joints sealed with mastic. If flex ducts are used, they cannot contain splices. Flex duct connections must be made with nylon straps and installed using a plastic strapping tensioning tool. Ducts located in crawl spaces do not qualify for this exception.

A written report of the results shall be signed by the party conducting the test and provided to the *code official*.

R403.3.4 Duct leakage (Mandatory). The total leakage of the ducts, where measured in accordance with Section R403.3.3, shall be as follows:

1. Rough-in test: Total leakage shall be less than or equal to 4 cfm (113.3 L/min) per 100 square feet (9.29 m²) of conditioned floor area when tested at a pressure differential of 0.1 inches w.g. (25 Pa) across the system, including the manufacturer's air handler enclosure. All registers shall be taped or otherwise sealed during the test. If the air handler is not installed at the time of the test, total leakage shall be less than or equal to 3 cfm (85 L/min) per 100 square feet (9.29 m²) of conditioned floor area.

2. Postconstruction test: Leakage to outdoors shall be less than or equal to 4 cfm (113.3 L/min) per 100 square feet (9.29 m²) of conditioned floor area((s)) or total leakage shall be less than or equal to 4 cfm (113.3 L/min) per 100 square feet (9.29 m²) of conditioned floor area when tested at a pressure differential of 0.1 inches w.g. (25 Pa) across the entire system, including the manufacturer's air handler enclosure. All register boots shall be taped or otherwise sealed during the test.

R403.3.5 Building cavities (Mandatory). Building framing cavities shall not be used as ducts or plenums. Installation of ducts in exterior walls, floors or ceilings shall not displace required envelope insulation.

AMENDATORY SECTION (Amending WSR 13-04-055, filed 2/1/13, effective 7/1/13)

WAC 51-11R-40610 Section R406.1—Scope.

R406.1 Scope. This section establishes options for additional criteria to be met for one- and two-family dwellings and townhouses, as defined in Section 101.2 of the *International Residential Code*, and dwelling units in residential buildings to demonstrate compliance with this code.

AMENDATORY SECTION (Amending WSR 16-02-127, filed 1/6/16, effective 7/1/16)

WAC 51-11R-40621 Table R406.2—Energy credits.

**TABLE 406.2
ENERGY CREDITS**

OPTION	DESCRIPTION	CREDIT(S)
1a	EFFICIENT BUILDING ENVELOPE 1a:	0.5

OPTION	DESCRIPTION	CREDIT(S)
	<p>Prescriptive compliance is based on Table R402.1.1 with the following modifications: Vertical fenestration U = 0.28 Floor R-38 Slab on grade R-10 perimeter and under entire slab Below grade slab R-10 perimeter and under entire slab or Compliance based on Section R402.1.4: Reduce the Total UA by 5%.</p>	
1b	<p>EFFICIENT BUILDING ENVELOPE 1b: Prescriptive compliance is based on Table R402.1.1 with the following modifications: Vertical fenestration U = 0.25 Wall R-21 plus R-4 <i>ci</i> Floor R-38 Basement wall R-21 int plus R-5 <i>ci</i> Slab on grade R-10 perimeter and under entire slab Below grade slab R-10 perimeter and under entire slab or Compliance based on Section R402.1.4: Reduce the Total UA by 15%.</p>	1.0
1c	<p>EFFICIENT BUILDING ENVELOPE 1c: Prescriptive compliance is based on Table R402.1.1 with the following modifications: Vertical fenestration U = 0.22 Ceiling and single-rafter or joist-vaulted R-49 advanced Wood frame wall R-21 int plus R-12 <i>ci</i> Floor R-38 Basement wall R-21 int plus R-12 <i>ci</i> Slab on grade R-10 perimeter and under entire slab Below grade slab R-10 perimeter and under entire slab or Compliance based on Section R402.1.4: Reduce the Total UA by 30%.</p>	2.0
1d ^a	<p>EFFICIENT BUILDING ENVELOPE 1d: Prescriptive compliance is based on Table R402.1.1 with the following modifications: Vertical fenestration U = 0.24</p>	0.5
2a	<p>AIR LEAKAGE CONTROL AND EFFICIENT VENTILATION 2a: Compliance based on R402.4.1.2: Reduce the tested air leakage to 3.0 air changes per hour maximum and All whole house ventilation requirements as determined by Section M1507.3 of the <i>International Residential Code</i> shall be met with a high efficiency fan (maximum 0.35 watts/cfm), not interlocked with the</p>	0.5

OPTION	DESCRIPTION	CREDIT(S)
	<p>furnace fan. Ventilation systems using a furnace including an ECM motor are allowed, provided that they are controlled to operate at low speed in ventilation only mode. To qualify to claim this credit, the building permit drawings shall specify the option being selected and shall specify the maximum tested building air leakage and shall show the qualified ventilation system.</p>	
2b	<p>AIR LEAKAGE CONTROL AND EFFICIENT VENTILATION 2b: Compliance based on Section R402.4.1.2: Reduce the tested air leakage to 2.0 air changes per hour maximum and All whole house ventilation requirements as determined by Section M1507.3 of the <i>International Residential Code</i> shall be met with a heat recovery ventilation system with minimum sensible heat recovery efficiency of 0.70. To qualify to claim this credit, the building permit drawings shall specify the option being selected and shall specify the maximum tested building air leakage and shall show the heat recovery ventilation system.</p>	1.0
2c	<p>AIR LEAKAGE CONTROL AND EFFICIENT VENTILATION 2c: Compliance based on Section R402.4.1.2: Reduce the tested air leakage to 1.5 air changes per hour maximum All whole house ventilation requirements as determined by Section M1507.3 of the <i>International Residential Code</i> shall be met with a heat recovery ventilation system with minimum sensible heat recovery efficiency of 0.85. To qualify to claim this credit, the building permit drawings shall specify the option being selected and shall specify the maximum tested building air leakage and shall show the heat recovery ventilation system.</p>	1.5
3a ^b	<p>HIGH EFFICIENCY HVAC EQUIPMENT 3a: Gas, propane or oil-fired furnace with minimum AFUE of 94%, or gas, propane or oil-fired boiler with minimum AFUE of 92%. To qualify to claim this credit, the building permit drawings shall specify the option being selected and shall specify the heating equipment type and the minimum equipment efficiency.</p>	1.0
3b ^b	<p>HIGH EFFICIENCY HVAC EQUIPMENT 3b: Air-source heat pump with minimum HSPF of 9.0</p>	1.0

OPTION	DESCRIPTION	CREDIT(S)
	To qualify to claim this credit, the building permit drawings shall specify the option being selected and shall specify the heating equipment type and the minimum equipment efficiency.	
3c ^b	<p>HIGH EFFICIENCY HVAC EQUIPMENT 3c: Closed-loop ground source heat pump; with a minimum COP of 3.3</p> <p>or</p> <p>Open loop water source heat pump with a maximum pumping hydraulic head of 150 feet and minimum COP of 3.6</p> <p>To qualify to claim this credit, the building permit drawings shall specify the option being selected and shall specify the heating equipment type and the minimum equipment efficiency.</p>	1.5
3d ^b	<p>HIGH EFFICIENCY HVAC EQUIPMENT 3d: DUCTLESS SPLIT SYSTEM HEAT PUMPS, ZONAL CONTROL:</p> <p>In homes where the primary space heating system is zonal electric heating, a ductless heat pump system shall be installed and provide heating to the largest zone of the housing unit.</p> <p>To qualify to claim this credit, the building permit drawings shall specify the option being selected and shall specify the heating equipment type and the minimum equipment efficiency.</p>	1.0
4	<p>HIGH EFFICIENCY HVAC DISTRIBUTION SYSTEM:</p> <p>All heating and cooling system components installed inside the conditioned space. This includes all equipment and distribution system components such as forced air ducts, hydronic piping, hydronic floor heating loop, convectors and radiators. All combustion equipment shall be direct vent or sealed combustion.</p> <p>For forced air ducts: A maximum of 10 linear feet of return ducts and 5 linear feet of supply ducts may be located outside the conditioned space. All metallic ducts located outside the conditioned space must have both transverse and longitudinal joints sealed with mastic. If flex ducts are used, they cannot contain splices. Flex duct connections must be made with nylon straps and installed using a plastic strapping tensioning tool. Ducts located outside the conditioned space must be insulated to a minimum of R-8.</p> <p>Locating system components in conditioned crawl spaces is not permitted under this option.</p>	1.0

OPTION	DESCRIPTION	CREDIT(S)
	<p>Electric resistance heat and ductless heat pumps are not permitted under this option.</p> <p>Direct combustion heating equipment with AFUE less than 80% is not permitted under this option.</p> <p>To qualify to claim this credit, the building permit drawings shall specify the option being selected and shall specify the heating equipment type and shall show the location of the heating and cooling equipment and all the ductwork.</p>	
5a	<p>EFFICIENT WATER HEATING 5a:</p> <p>All showerheads and kitchen sink faucets installed in the house shall be rated at 1.75 GPM or less. All other lavatory faucets shall be rated at 1.0 GPM or less.^c</p> <p>To qualify to claim this credit, the building permit drawings shall specify the option being selected and shall specify the maximum flow rates for all showerheads, kitchen sink faucets, and other lavatory faucets.</p>	0.5
5b	<p>EFFICIENT WATER HEATING 5b:</p> <p>Water heating system shall include one of the following: Gas, propane or oil water heater with a minimum EF of 0.74</p> <p>or</p> <p>Water heater heated by ground source heat pump meeting the requirements of Option 3c.</p> <p>or</p> <p>For R-2 occupancy, a central heat pump water heater with an EF greater than 2.0 that would supply DHW to all the units through a central water loop insulated with R-8 minimum pipe insulation.</p> <p>To qualify to claim this credit, the building permit drawings shall specify the option being selected and shall specify the water heater equipment type and the minimum equipment efficiency.</p>	1.0
5c	<p>EFFICIENT WATER HEATING 5c:</p> <p>Water heating system shall include one of the following: Gas, propane or oil water heater with a minimum EF of 0.91</p> <p>or</p> <p>Solar water heating supplementing a minimum standard water heater. Solar water heating will provide a rated minimum savings of 85 therms or 2000 kWh based on the Solar Rating and Certification Corporation (SRCC) Annual Performance of OG-300 Certified Solar Water Heating Systems.</p> <p>or</p>	1.5

OPTION	DESCRIPTION	CREDIT(S)
	<p>Electric heat pump water heater with a minimum EF of 2.0 and meeting the standards of NEEA's Northern Climate Specifications for Heat Pump Water Heaters.</p> <p>To qualify to claim this credit, the building permit drawings shall specify the option being selected and shall specify the water heater equipment type and the minimum equipment efficiency and, for solar water heating systems, the calculation of the minimum energy savings.</p>	
5d	<p>EFFICIENT WATER HEATING 5d:</p> <p>A drain water heat recovery unit(s) shall be installed, which captures waste water heat from all the showers, and has a minimum efficiency of 40% if installed for equal flow or a minimum efficiency of 52% if installed for unequal flow. Such units shall be rated in accordance with the CSA B55.1 standard and be so labeled.</p> <p>To qualify to claim this credit, the building permit drawings shall include a plumbing diagram that specifies the drain water heat recovery units and the plumbing layout needed to install it and labels or other documentation shall be provided that demonstrates that the unit complies with the standard.</p>	0.5
6	<p>RENEWABLE ELECTRIC ENERGY:</p> <p>For each 1200 kWh of electrical generation per housing unit provided annually by on-site wind or solar equipment a 0.5 credit shall be allowed, up to 3 credits. Generation shall be calculated as follows:</p> <p>For solar electric systems, the design shall be demonstrated to meet this requirement using the National Renewable Energy Laboratory calculator PVWATTS. Documentation noting solar access shall be included on the plans.</p> <p>For wind generation projects designs shall document annual power generation based on the following factors:</p> <p>The wind turbine power curve; average annual wind speed at the site; frequency distribution of the wind speed at the site and height of the tower.</p> <p>To qualify to claim this credit, the building permit drawings shall specify the option being selected and shall show the photovoltaic or wind turbine equipment type, provide documentation of solar and wind access, and include a calculation of the minimum annual energy power production.</p>	0.5

Footnotes: ^a Projects using this option may not use option 1a, 1b, or 1c.

^b Projects may only include credit from one space heating option, 3a, 3b, 3c or 3d. When a housing unit has two pieces of equipment (i.e., two furnaces) both must meet the standard to receive the credit.

^c **Plumbing Fixtures Flow Ratings.** Low flow plumbing fixtures (water closets and urinals) and fittings (faucets and showerheads) shall comply with the following requirements:

1 Residential bathroom lavatory sink faucets: Maximum flow rate - 3.8 L/min (1.0 gal/min) when tested in accordance with ASME A112.18.1/CSA B125.1.

2 Residential kitchen faucets: Maximum flow rate - 6.6 L/min (1.75 gal/min) when tested in accordance with ASME A112.18.1/CSA B125.1.

3 Residential showerheads: Maximum flow rate - 6.6 L/min (1.75 gal/min) when tested in accordance with ASME A112.18.1/CSA B125.1.

AMENDATORY SECTION (Amending WSR 16-02-127, filed 1/6/16, effective 7/1/16)

WAC 51-11R-50200 Section R502—Additions.

R502.1 General. Additions to an existing building, building system or portion thereof shall conform to the provisions of this code as those provisions relate to new construction without requiring the unaltered portion of the existing building or building system to comply with this code. Additions shall not create an unsafe or hazardous condition or overload existing building systems. An addition shall be deemed to comply with this code where the addition alone complies, where the existing building and addition comply with this code as a single building, or where the building with the addition uses no more energy than the existing building. Additions shall be in accordance with Section R502.1.1 or R502.1.2.

R502.1.1 Prescriptive compliance. Additions shall comply with Sections R502.1.1.1 through R502.1.1.4.

R502.1.1.1 Building envelope. New building envelope assemblies that are part of the addition shall comply with Sections R402.1, R402.2, R402.3.1 through R402.3.5, and R402.4.

EXCEPTION: Where nonconditioned space is changed to conditioned space, the building envelope of the addition shall comply where the UA, as determined in Section R402.1.4, of the existing building and the addition, and any alterations that are part of the project, is less than or equal to UA generated for the existing building.

R502.1.1.2 Heating and cooling systems. New heating, cooling and duct systems that are part of the addition shall comply with Sections R403.1, R403.2, R403.3, R403.5, and R403.6.

EXCEPTION: The following need not comply with the testing requirements of Section R403.3.3:

1. Additions of less than 750 square feet.
2. Duct systems that are documented to have been previously sealed as confirmed through field verification and diagnostic testing in accordance with procedures in WSU RS-33.
3. Ducts with less than 40 linear feet in unconditioned spaces.

4. Existing duct systems constructed, insulated or sealed with asbestos.

R502.1.1.3 Service hot water systems. New service hot water systems that are part of the addition shall comply with Section ((R403.4)) R403.5.

R502.1.1.4 Lighting. New lighting systems that are part of the addition shall comply with Section 404.1.

R502.1.2 Existing plus addition compliance (Simulated Performance Alternative). Where nonconditioned space is changed to conditioned space the addition shall comply where the annual energy use of the addition and the existing building, and any alterations that are part of the project, is less than or equal to the annual energy use of the existing building when modeled in accordance with Section R405. The addition and any alterations that are part of the project shall comply with Section R405 in its entirety.

AMENDATORY SECTION (Amending WSR 16-02-127, filed 1/6/16, effective 7/1/16)

WAC 51-11R-50300 Section R503—Alterations.

R503.1 General. Alterations to any building or structure shall comply with the requirements of the code for new construction. Alterations shall be such that the existing building or structure is no less conforming to the provisions of this code than the existing building or structure was prior to the alteration.

Alterations to an existing building, building system or portion thereof shall conform to the provisions of this code as they relate to new construction without requiring the unaltered portions of the existing building or building system to comply with this code. Alterations shall not create an unsafe or hazardous condition or overload existing building systems.

Alterations shall be such that the existing building or structure uses no more energy than the existing building or structure prior to the alteration. Alterations to existing buildings shall comply with Sections R503.1.1 through R503.2

The *code official* may approve designs of alterations which do not fully conform to all of the requirements of this code where in the opinion of the building official full compliance is physically impossible and/or economically impractical and:

The alteration improves the energy efficiency of the building; or

The alteration is energy efficient and is necessary for the health, safety, and welfare of the general public.

R503.1.1 Building envelope. Building envelope assemblies that are part of the alteration shall comply with Section R402.1.1 or R402.1.4, Sections R402.2.1 through R402.2.11, R402.3.1, R402.3.2, R402.4.3, and R402.4.4.

EXCEPTION: The following alterations need not comply with the requirements for new construction provided the energy use of the building is not increased:

1. Storm windows installed over existing fenestration.

2. Existing ceiling, wall or floor cavities exposed during construction provided that these cavities are filled with insulation. 2 x 4 framed walls shall be insulated to a minimum of R-15 and 2 x 6 framed walls shall be insulated to a minimum of R-21.

3. Construction where the existing roof, wall or floor cavity is not exposed.

4. Roof recover.

5. Roofs without insulation in the cavity and where the sheathing or insulation is exposed during reroofing shall be insulated either above or below the sheathing.

6. Surface-applied window film installed on existing single pane fenestration assemblies to reduce solar heat gain provided the code does not require the glazing fenestration to be replaced.

R503.1.1.1 Replacement fenestration. Where some or all of an existing fenestration unit is replaced with a new fenestration product, including sash and glazing, the replacement fenestration unit shall meet the applicable requirements for *U*-factor and SHGC in Table R402.1.1.

R503.1.2 Heating and cooling systems. New heating, cooling and duct systems that are part of the alteration shall comply with Sections R403.1, R403.2, R403.3, and R403.6.

EXCEPTIONS:

1. Where ducts from an existing heating and cooling system are extended, duct systems with less than 40 linear feet in unconditioned spaces shall not be required to be tested in accordance with Section R403.2.2.
2. Existing duct systems constructed, insulated or sealed with asbestos.

R503.1.3 Service hot water systems. New service hot water systems that are part of the alteration shall comply with Section ((R403.4)) R403.5.

R503.1.4 Lighting. New lighting systems that are part of the alteration shall comply with Section R404.1.

EXCEPTION: Alterations that replace less than 50 percent of the luminaires in a space, provided that such alterations do not increase the installed interior lighting power.

R503.2 Change in space conditioning. Any nonconditioned or low-energy space that is altered to become conditioned space shall be required to be brought into full compliance with this code.

EXCEPTION: Where the simulated performance option in Section R405 is used to comply with this section, the annual energy use of the proposed design is permitted to be 110 percent of the annual energy use otherwise allowed by Section R405.3.

WSR 17-10-069

**PERMANENT RULES
DEPARTMENT OF**

SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

[Filed May 3, 2017, 9:33 a.m., effective June 3, 2017]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The department is amending WAC 388-450-0195 Does the department use my utility costs when calculat-

ing my basic food or WASHCAP benefits?, to provide a standard utility allowance for basic food households that do not qualify for low income home energy assistance program solely due to immigration status.

Citation of Existing Rules Affected by this Order: Amending WAC 388-450-0195.

Statutory Authority for Adoption: RCW 74.04.005, 74.04.050, 74.04.055, 74.04.057, 74.04.500, 74.04.510, 74.08.090, 74.08A.120, 7 C.F.R. 273.9 (d)(6)(iii)(B).

Adopted under notice filed as WSR 17-07-090 on March 20, 2017.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 1, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Date Adopted: May 2, 2017.

Katherine I. Vasquez
Rules Coordinator

AMENDATORY SECTION (Amending WSR 16-24-051, filed 12/1/16, effective 1/1/17)

WAC 388-450-0195 Does the department use my utility costs when calculating my basic food or WASHCAP benefits? (1) The department uses utility allowances instead of the actual utility costs your assistance unit (AU) pays when we determine your:

(a) Monthly benefits under WAC 388-492-0070 if you receive Washington state combined application project (WASHCAP); or

(b) Shelter cost income deduction under WAC 388-450-0190 for basic food.

(2) We use the amounts in this subsection if you have utility costs separate from your rent or mortgage payment:

(a) If your AU has heating or cooling costs ~~((or))~~ or receives more than twenty dollars in low income home energy assistance program (LIHEAP) benefits each year, you get a standard utility allowance (SUA) of four hundred eleven dollars.

(b) If your household does not receive a LIHEAP payment and the reason is solely because of your immigration status, you get a SUA of four hundred eleven dollars.

(c) If your AU does not qualify for the SUA and you have any two utility costs listed in subsection (3) of this section, you get a limited utility allowance (LUA) of three hundred nineteen dollars.

~~((or))~~ (d) If your AU has only telephone costs and no other utility costs, you get a telephone utility allowance (TUA) of fifty-seven dollars.

(3) "Utility costs" include the following:

(a) Heating or cooling fuel;

(b) Electricity or gas;

(c) Water;

(d) Sewer;

(e) Well installation/maintenance;

(f) Septic tank installation/maintenance;

(g) Garbage/trash collection; and

(h) Telephone service.

(4) If you do not have a utility cost separate from your rent or mortgage payment and do not receive low income energy assistance program (LIHEAP), you do not receive a utility allowance.

WSR 17-10-074

PERMANENT RULES

BUILDING CODE COUNCIL

[Filed May 3, 2017, 11:11 a.m., effective June 3, 2017]

Effective Date of Rule: Thirty-one days after filing.

Purpose: **Makes changes to the state amendments to the 2015 Uniform Plumbing Code for clarity, along with some editorial changes.** Includes Section 408.6, Shower compartments; Table 501.1, First hour rating; Section 507.2, Seismic provisions; Section 603.5.14, Protection from fire systems; Section 608.5, Discharge piping; and Section 701.2.

Citation of Existing Rules Affected by this Order: Amending WAC 51-56-0400, 51-56-0500, 51-56-0600, and 51-56-0700.

Statutory Authority for Adoption: RCW 19.27.031.

Other Authority: RCW 19.27.074.

Adopted under notice filed as WSR 17-04-089 on January 31, 2017.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 4, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: April 21, 2017.

Steve K. Simpson
Council Chair

AMENDATORY SECTION (Amending WSR 16-02-044, filed 12/30/15, effective 7/1/16)

WAC 51-56-0400 Chapter 4—Plumbing fixtures and fixture fittings.

402.5 Setting. Fixtures shall be set level and in proper alignment with reference to adjacent walls. No water closet or bidet shall be set closer than fifteen (15) inches (381 mm) from its center to any side wall or obstruction nor closer than thirty (30) inches (762 mm) center to center to any similar fixture. The clear space in front of any water closet or bidet shall be not less than twenty-four (24) inches (610 mm). No urinal shall be set closer than twelve (12) inches (305 mm) from its center to any side wall or partition nor closer than twenty-four (24) inches (610 mm) center to center.

EXCEPTIONS:

1. The clear space in front of a water closet, lavatory or bidet in dwelling units and sleeping units shall be not less than 21 inches (533 mm).
2. The installation of paper dispensers or accessibility grab bars shall not be considered obstructions.

405.4 Application. No individual, public or private corporation, firm, political subdivision, government agency, or other legal entity, may, for purposes of use in the state of Washington, distribute, sell, offer for sale, import, install, or approve for installation any plumbing fixtures or fittings unless the fixtures or fittings meet the standards as provided for in this chapter.

407.2 Water Consumption. The maximum water use allowed in gallons per minute (gpm) or liters per minute (lpm) for any of the following faucets and replacement aerators is the following:

Lavatory faucets	2.5 gpm/9.5 lpm
Kitchen faucets	2.5 gpm/9.5 lpm
Replacement aerators	2.5 gpm/9.5 lpm
Public lavatory faucets other than metering	0.5 gpm/1.9 lpm

407.4 Metering Valves. Lavatory faucets located in restrooms intended for use by the general public shall be equipped with a metering valve designed to close by spring or water pressure when left unattended (self-closing).

EXCEPTIONS:

1. Where designed and installed for use by persons with a disability.
2. Where installed in day care centers, for use primarily by children under 6 years of age.

408.2 Water Consumption. Showerheads shall have a maximum flow rate of not more than 2.5 gpm at 80 psi (9.5 L/m at 552 kPa), in accordance with ASME A112.18.1/CSA B125.1.

EXCEPTION: Emergency use showers shall be exempt from the maximum water usage rates.

408.4 Waste Outlet. Showers shall have a waste outlet and fixture tailpiece not less than two (2) inches (50 mm) in diameter. Fixture tailpieces shall be constructed from the materials specified in Section 701.1 for drainage piping. Strainers serv-

ing shower drains shall have a waterway at least equivalent to the area of the tailpiece.

EXCEPTION: In a residential dwelling unit where a 2 inch waste is not readily available and approval of the AHJ has been granted, the waste outlet, fixture tailpiece, trap and trap arm may be 1-1/2 inch when an existing tub is being replaced by a shower sized per Section 408.6(2). This exception only applies where one shower head rated at 2.5 gpm is installed.

408.6 Shower Compartments. Shower compartments, regardless of shape, shall have a minimum finished interior of nine hundred (900) square inches (0.58 m²) and shall also be capable of encompassing a thirty (30) inch (762 mm) circle. The minimum required area and dimensions shall be measured at a height equal to the top of the threshold and at a point tangent to its centerline. The area and dimensions shall be maintained to a point of not less than seventy (70) inches (~~((1-778))~~ 1,778 mm) above the shower drain outlet with no protrusions other than the fixture valve or valves, shower head, soap dishes, shelves, and safety grab bars or rails. Fold-down seats in accessible shower stalls shall be permitted to protrude into the thirty (30) inch (762 mm) circle.

EXCEPTIONS:

1. Showers that are designed to comply with ICC/ANSI A117.1.
2. The minimum required area and dimension shall not apply for a shower receptor having overall dimensions of not less than thirty (30) inches (762 mm) in width and sixty (60) inches (1,524 mm) in length.

411.2 Water Consumption. Water closets shall have a maximum consumption not to exceed 1.6 gallons (6.0 L) of water per flush in accordance with ASME A112.19.2/CSA B45.1. No water closet that operates on a continuous flow or continuous flush basis shall be permitted.

EXCEPTIONS:

1. Water closets located in day care centers, intended for use by young children may have a maximum water use of 3.5 gallons per flush or 13.25 liters per flush.
2. Water closets with bed pan washers may have a maximum water use of 3.5 gallons per flush or 13.25 liters per flush.
3. Blow out bowls, as defined in ANSI/ASME A112.19.2M, Section 5.1.2.3 may have a maximum water use of 3.5 gallons per flush or 13.25 liters per flush.

412.1 Application. Urinals shall comply with ASME A112.19.2/CSA B45.1, ASME A112.19.19, or CSA B45.5/IAPMO Z124. Urinals shall have an average water consumption not to exceed 1 gallon (3.8 L) of water per flush. No urinal that operates on a continuous flow or continuous flush basis shall be permitted.

414.3 Drainage Connection. Domestic dishwashing machines shall discharge indirectly through an air gap fitting in accordance with Section 807.4 into a waste receptor, a wye branch fitting on the tailpiece of a kitchen sink, or dishwasher connection of a food waste disposer. Commercial dishwashing machines shall discharge indirectly through an air gap.

415.2 Drinking Fountain Alternatives. This section is not adopted. See Building Code chapter 29.

418.3 Location of Floor Drains. Floor drains shall be installed in the following areas:

1. Toilet rooms containing two (2) or more water closets or a combination of one (1) water closet and one (1) urinal, except in a dwelling unit. The floor shall slope toward the floor drains.
2. Laundry rooms in commercial buildings and common laundry facilities in multifamily dwelling buildings.

422.0 Minimum Number of Required Fixtures. For minimum number of plumbing fixtures required, see Building Code chapter 29 and Table 2902.1.

Sections 422.1 through 422.5 and Table 422.1 are not adopted.

AMENDATORY SECTION (Amending WSR 16-02-044, filed 12/30/15, effective 7/1/16)

WAC 51-56-0500 Chapter 5—Water heaters.

501.1 Applicability. The regulations of this chapter shall govern the construction, location, and installation of fuel burning and other types of water heaters heating potable water. The minimum capacity for water heaters shall be in accordance with the first hour rating listed in Table 501.1. See the Mechanical Code for combustion air and installation of all vents and their connectors. No water heater shall be hereinafter installed that does not comply with the manufacturer's installation instructions and the type and model of each size thereof approved by the authority having jurisdiction. A list of accepted water heater appliance standards is referenced in Table 501(2). Listed appliances shall be installed in accordance with the manufacturer's installation instructions. Unlisted water heaters shall be permitted in accordance with Section 504.3.2.

TABLE 501.1^{1,3}

Number of Bathrooms	1 to 1.5			2 to 2.5				3 to 3.5			
Number of Bedrooms	1	2	3	2	3	4	5	3	4	5	6
First Hour Rating ² , Gallons	42	54	54	54	67	67	80	67	80	80	80

- Notes:
- ¹The first hour rating is found on the "Energy Guide" label.
 - ²Nonstorage and solar water heaters shall be sized to meet the appropriate first hour rating as shown in the table.
 - ³For replacement water heaters, see Section ((402.4)) 101.4.1.1.1.

504.1 Location. Water heater installation in bedrooms and bathrooms shall comply with one of the following:

- (1) Fuel-burning water heaters may be installed in a closet located in the bedroom or bathroom provided the closet is equipped with a listed, gasketed door assembly and a listed self-closing device. The self-closing door assembly shall meet the requirements of Section 505.1.1. The door assembly shall be installed with a threshold and bottom door seal and shall meet the requirements of Section 505.1.2. All combustion air for such installations shall be obtained from the outdoors in accordance with the International Mechanical Code. The closet shall be for the exclusive use of the water heater.
- (2) Water heater shall be of the direct vent type.

505.2 Safety Devices. All storage-type water heaters deriving heat from fuels or types of energy other than gas, shall be provided with, in addition to the primary temperature controls, an over-temperature safety protection device constructed, listed, and installed in accordance with nationally recognized applicable standards for such devices and a combination temperature and pressure relief valve.

506.0 Combustion Air. For issues relating to combustion air, see the Mechanical Code.

Sections 506.1 through 506.9 are not adopted.

Sections 507.6 through 507.9 are not adopted.

507.2 Seismic Provisions. Water heaters shall be anchored or strapped to resist horizontal displacement due to earthquake motion. Strappings shall be at points within the upper

one-third and lower one-third of its vertical dimensions. At the lower point, a distance of not less than four (4) inches ((9,102)) 102 mm) shall be maintained from the controls to the strapping.

507.13 Installation in Garages. Appliances in garages and in adjacent spaces that open to the garage and are not part of the living space of a dwelling unit shall be installed so that burners, burner-ignition devices and ignition sources are located not less than eighteen (18) inches above the floor unless listed as flammable vapor ignition resistant.

507.16 Venting of Flue Gases - Delete entire section.

Sections 507.18 through 507.22 are not adopted.

509.0 Venting of Equipment. Delete entire section.

510.0 Sizing of Category I Venting Systems. Delete entire section.

511.0 Direct Vent Equipment. Delete entire section.

AMENDATORY SECTION (Amending WSR 16-02-044, filed 12/30/15, effective 7/1/16)

WAC 51-56-0600 Chapter 6—Water supply and distribution.

601.1 Applicability. This chapter shall govern the materials, design and installation of *water supply systems*, including backflow prevention devices, assemblies and methods used for backflow prevention.

603.1 General. Cross-connection control shall be provided in accordance with the provisions of this chapter. Devices or assemblies for protection of the public water system must be models approved by the department of health under WAC 246-290-490. The authority having jurisdiction shall coordinate with the local water purveyor where applicable in all matters concerning cross-connection control within the property lines of the premises.

No person shall install any water operated equipment or mechanism, or use any water treating chemical or substance, if it is found that such equipment, mechanism, chemical or substance may cause pollution or contamination of the domestic water supply. Such equipment or mechanism may be permitted only when equipped with an approved backflow prevention device or assembly.

603.2 Approval of Devices or Assemblies. Before any device or assembly is installed for the prevention of backflow, it shall have first been approved by the authority having

jurisdiction. Devices or assemblies shall be tested for conformity with recognized standards or other standards acceptable to the authority having jurisdiction. Backflow prevention devices and assemblies shall comply with Table 603.2, except for specific applications and provisions as stated in Section 603.5.1 through 603.5.21.

All devices or assemblies installed in a potable water supply system for protection against backflow shall be maintained in good working condition by the person or persons having control of such devices or assemblies. Such devices or assemblies shall be tested in accordance with Section 603.4.2 and WAC 246-290-490. If found to be defective or inoperative, the device or assembly shall be replaced or repaired. No device or assembly shall be removed from use or relocated or other device or assembly substituted, without the approval of the authority having jurisdiction.

Testing shall be performed by a Washington state department of health certified backflow assembly tester.

TABLE 603.2
Backflow Prevention Devices, Assemblies and Methods
The following line is deleted from the table:

Device, Assembly or Method	Applicable Standards	Pollution (Low Hazard)		Contamination (High Hazard)		Installation
		Back Siphonage	Back Pressure	Back Siphonage	Back Pressure	
Backflow preventer for carbonated beverage dispensers (two independent check valves with a vent to the atmosphere.)	ASSE 1022	X				Installation includes carbonated beverage machines or dispensers. These devices operate under intermittent or continuous pressure conditions.

603.4.2 Testing. For devices and assemblies other than those regulated by the Washington department of health in conjunction with the local water purveyor for the protection of public water systems, the authority having jurisdiction shall ensure that the premise owner or responsible person shall have the backflow prevention assembly tested by a Washington state department of health certified backflow assembly tester:

- (1) At the time of installation, repair or relocation; and
- (2) At least on an annual schedule thereafter, unless more frequent testing is required by the authority having jurisdiction.

603.4.9 Prohibited Location. Backflow prevention devices with atmospheric vents or ports shall not be installed in pits, underground or in submerged locations. Backflow preventers shall not be located in any area containing fumes or aerosols that are toxic, poisonous, infectious, or corrosive.

603.5.6 Protection from Lawn Sprinklers and Irrigation Systems. Potable water supplies to systems having no pumps or connections for pumping equipment, and no chemical injection or provisions for chemical injection, shall be protected from backflow by one of the following:

- (1) Atmospheric vacuum breaker (AVB).

- (2) Pressure vacuum breaker backflow prevention assembly (PVB).
- (3) Spill-resistant pressure vacuum breaker (SVB).
- (4) Reduced pressure principle backflow prevention assembly (RP).
- (5) A double check valve backflow prevention assembly (DC) may be allowed when approved by the water purveyor and the authority having jurisdiction.

603.5.10 Steam or Hot Water Boilers. Potable water connections to steam or hot water boilers shall be protected by an air gap or a reduced pressure principle backflow preventer.

603.5.12 Beverage Dispensers. Potable water supply to carbonators shall be protected by a listed reduced pressure principle backflow preventer as approved by the authority having jurisdiction for the specific use. The backflow preventer shall be located in accordance with Section 603.4.3. The piping downstream of the backflow preventer shall not be of copper, copper alloy, or other material that is affected by carbon dioxide.

~~((603.5.15))~~ **603.5.14 Protection from Fire Systems.** Except as provided under Sections ~~((603.5.15.1 and 603.5.15.2))~~ 603.5.14.1 and 603.5.14.2, potable water supplies to fire protection systems that are normally under pressure, including

but not limited to standpipes and automatic sprinkler systems, except in one or two family or townhouse residential flow-through or combination sprinkler systems piped in materials approved for potable water distribution systems, shall be protected from back-pressure and back-siphonage by one of the following testable assemblies:

1. Double check valve backflow prevention assembly (DC).
2. Double check detector fire protection backflow prevention assembly.
3. Reduced pressure principle backflow prevention assembly (RP).
4. Reduced pressure detector fire protection backflow prevention assembly.

Potable water supplies to fire protection systems that are not normally under pressure shall be protected from backflow and shall meet the requirements of the appropriate standard(s) referenced in Table 1401.1.

604.14 Plastic Pipe Termination. Plastic water service piping may terminate within a building, provided the connection to the potable water distribution system shall be made as near as is practical to the point of entry and shall be accessible. Barbed insert fittings with hose clamps are prohibited as a transition fitting within the building.

606.5 Control Valve. A control valve shall be installed immediately ahead of each water-supplied appliance and immediately ahead of each slip joint or appliance supply.

Parallel water distribution systems shall provide a control valve either immediately ahead of each fixture being supplied or installed at the manifold, and shall be identified with the fixture being supplied. Where parallel water distribution system manifolds are located in attics, crawl spaces, or other locations not accessible, a separate shutoff valve shall be required immediately ahead of each individual fixture or appliance served.

608.3 Expansion Tanks, and Combination Temperature and Pressure-Relief Valves. A water system provided with a check valve, backflow preventer, or other normally closed device that prevents dissipation of building pressure back into the water main, independent of the type of water used, shall be provided with an approved, listed, and adequately sized expansion tank or other approved device having a similar function to control thermal expansion. Such expansion tank or other approved device shall be installed on the building side of the check valve, backflow preventer, or other device and shall be sized and installed in accordance with the manufacturer's installation instructions.

EXCEPTION: Instantaneous hot water systems installed in accordance with the manufacturer's installation instructions.

608.3.1 A water system containing storage water heating equipment shall be provided with an approved, listed, adequately sized combination temperature and pressure-relief valve, except for listed nonstorage instantaneous heater having an inside diameter of not more than three (3) inches (80 mm). Each such approved combination temperature and pressure-relief valve shall be installed on the water-heating device in an approved location based on its listing require-

ments and the manufacturer's installation instructions. Each such combination temperature and pressure-relief valve shall be provided with a drain in accordance with Section 608.5.

608.5 (~~(Drains. Relief valves located inside a building shall be provided with a drain, not smaller than the relief valve outlet, of galvanized steel, hard drawn copper piping and fittings, CPVC, PP, or listed relief valve drain tube with fittings which will not reduce the internal bore of the pipe or tubing (straight lengths as opposed to coils) and shall extend from the valve to the outside of the building, with the end of the pipe not more than two (2) feet (610 mm) nor less than six (6) inches (152 mm) above the ground or the flood level of the area receiving the discharge and pointing downward. Such drains may terminate at other approved locations. No part of such drain pipe shall be trapped or subject to freezing. The terminal end of the drain pipe shall not be threaded.~~) **Discharge Piping.** The discharge piping serving a temperature relief valve, pressure relief valve or combination of both shall have no valves, obstructions or means of isolation and be provided with the following:

(1) Equal to the size of the valve outlet and shall discharge full size to the flood level of the area receiving the discharge and pointing down.

(2) Materials shall be rated at not less than the operating temperature of the system and approved for such use.

(3) Discharge pipe shall discharge independently by gravity through an air gap into the drainage system or outside of the building with the end of the pipe not exceeding 2 feet (610 mm) and not less than 6 inches (152 mm) above the ground pointing downwards.

(4) Discharge in such a manner that does not cause personal injury or structural damage.

(5) No part of such discharge pipe shall be trapped or subject to freezing.

(6) The terminal end of the pipe shall not be threaded.

(7) Discharge from a relief valve into a water heater pan shall be prohibited.

EXCEPTION: Where no drainage was provided, replacement water heating equipment shall only be required to provide a drain pointing downward from the relief valve to extend between two (2) feet (610 mm) and six (6) inches (152 mm) from the floor. No additional floor drain need be provided.

609.9 Disinfection of Potable Water System. New or repaired *potable water* systems shall be disinfected prior to use where required by the *authority having jurisdiction*. The method to be followed shall be that prescribed by the health authority or, in case no method is prescribed by it, the following:

(1) The *pipe system* shall be flushed with clean, *potable water* until *potable water* appears at the points of outlet.

(2) The system or parts thereof shall be filled with a water-chlorine solution containing not less than 50 parts per million of chlorine, and the system or part thereof shall be valved-off and allowed to stand for twenty-four hours; or, the system or part thereof shall be filled with a water-chlorine solution containing not less than 200 parts per million of chlorine and allowed to stand for three hours.

(3) Following the allowed standing time, the system *shall* be flushed with clean, *potable water* until the chlorine residual in the water coming from the system does not exceed the chlorine residual in the flushing water.

(4) The procedure *shall* be repeated when a standard bacteriological test for drinking water, performed by a laboratory certified for drinking water in Washington state, shows unsatisfactory results indicating that *contamination* persists in the system.

609.11 Insulation of Potable Water Piping. Domestic water piping within commercial buildings shall be insulated in accordance with Section C403.2.8 and Table C403.2.8 or Section C404.6 of the Washington State Energy Code, as applicable.

610.4 Sizing Water Supply and Distribution Systems. Systems within the range of Table 610.4 may be sized from that table or by the method set forth in Section 610.5.

Listed parallel water distribution systems shall be installed in accordance with their listing.

611.1 Application. Drinking water treatment units shall comply with NSF 42 or NSF 53. Water softeners shall comply with NSF 44. Ultraviolet water treatment systems shall comply with NSF 55. Reverse osmosis drinking water treatment systems shall comply with NSF 58. Drinking water distillation systems shall comply with NSF 62.

The owner of a building that serves potable water to twenty-five or more people at least sixty or more days per year and that installs drinking water treatment units including, but not limited to, the treatment units in Section 611.1, may be regulated (as a Group A public water system) by the Washington state department of health under chapter 246-290 WAC. See Washington state department of health publication 331-488 for guidance.

612.1 General. Where residential fire sprinkler systems are installed, they shall be installed in accordance with the International Building Code or International Residential Code.

Sections 612.2 through 612.7.2 are not adopted.

AMENDATORY SECTION (Amending WSR 16-02-044, filed 12/30/15, effective 7/1/16)

WAC 51-56-0700 Chapter 7—Sanitary drainage.

701.2 Drainage Piping. Materials for drainage piping shall be in accordance with one of the referenced standards in Table 701.1 except that:

1. No galvanized wrought-iron or galvanized steel pipe shall be used underground and shall be kept not less than 6 inches (152 mm) above ground.

2. ABS and PVC DWV piping installations shall be installed in accordance with applicable standards in Table ~~((4401.1))~~ 1701.1. Except for individual single family dwelling units, materials exposed within ducts or plenums shall have a maximum flame-spread index of 25 and a maximum smoke developed index of 50, when tested in accordance with ASTM E-84 and UL 723.

3. No vitrified clay pipe or fittings shall be used above ground or where pressurized by a pump or ejector. They shall be kept not less than 12 inches (305 mm) below ground.

4. Copper tube for drainage and vent piping shall have a weight of not less than that of copper drainage tube type DWV.

5. Stainless steel 304 pipe and fittings shall not be installed underground and shall be kept not less than 6 inches (152 mm) above ground.

6. Cast-iron soil pipe and fittings shall be listed and tested in accordance with standards referenced in Table ~~((4401.1))~~ 1701.1. Such pipe and fittings shall be marked with country of origin and identification of the original manufacturer in addition to markings required by referenced standards.

Table 703.2

MAXIMUM UNIT LOADING AND MAXIMUM LENGTH OF DRAINAGE AND VENT PIPING

Notes:

1. Excluding trap arm.
2. Except sinks, urinals, and dishwashers - Exceeding 1 fixture unit.
3. Except six-unit traps or water closets.
4. Only four water closets or six-unit traps allowed on a vertical pipe or stack; and not to exceed three water closets or six-unit traps on a horizontal branch or drain.

EXCEPTION: In a single family dwelling addition or alteration where a 4 inch horizontal waste is not readily available four water closets not to exceed 1.6 gpf each may be allowed on a 3 inch horizontal waste when approved by the AHJ.

5. Based on one-fourth inch per foot (20.8 mm/m) slope. For one-eighths of an inch per foot (10.4 mm/m) slope, multiply horizontal fixture units by a factor of 0.8.

6. The diameter of an individual vent shall be not less than one and one-fourth inches (32 mm) nor less than one-half the diameter of the drain to which it is connected. Fixture unit load values for drainage and vent piping shall be computed from Table 702.1 and Table 702.2(b). Not to exceed one-third of the total permitted length of a vent shall be permitted to be installed in a horizontal position. Where vents are increased one pipe size for their entire length, the maximum length limitations specified in this table do not apply. This table is in accordance with the requirements of Section 901.2.

704.3 Commercial Sinks. Except where specifically required to be connected indirectly to the drainage system, or when first approved by the authority having jurisdiction, all plumbing fixtures, drains, appurtenances, and appliances shall be directly connected to the drainage system of the building or premises.

707.4 Location. Each horizontal drainage *pipe shall* be provided with a cleanout at its upper terminal, and each run of piping, that is more than 100 feet (30,480 mm) in total *developed length, shall* be provided with a cleanout for each 100 feet (30,480 mm), or fraction thereof, in length of such piping. An additional cleanout *shall* be provided in a drainage line for each aggregate horizontal change of direction exceeding 135 degrees (2.36 rad).

- EXCEPTIONS:
1. Cleanouts *shall* be permitted to be omitted on a horizontal *drain* line less than 5 feet (1,524 mm) in length unless such line is serving sinks or urinals.
 2. Cleanouts *shall* be permitted to be omitted on a horizontal drainage *pipe* installed on a *slope* of 72 degrees (1.26 rad) or less from the vertical angle (one-fifth bend).
 3. Except for the *building drain*, its *horizontal branches*, and urinals, a cleanout *shall* not be required on a *pipe* or piping that is above the floor level of the lowest floor of the *building*.
 4. An *approved* type of two-way cleanout fitting, installed inside the *building* wall near the connection between the *building drain* and the *building sewer* or installed outside of a *building* at the lower end of a *building drain* and extended to *grade*, *shall* be permitted to be substituted for an upper terminal cleanout.

707.9 Clearance. Each cleanout in piping 2 inches (50 mm) or less in size *shall* be so installed that there is a clearance of not less than 12 inches (457 mm) in front of the cleanout. Cleanouts in piping exceeding 2 inches (50 mm) *shall* have a clearance of not less than 18 inches (610 mm) in front of the cleanout. Cleanouts in under-floor piping *shall* be extended to or above the finished floor or *shall* be extended outside the *building* where there is less than 18 inches (457 mm) vertical overall, allowing for obstructions such as ducts, beams, and piping, and 30 inches of (762 mm) horizontal clearance from the means of access to such cleanout. No under-floor cleanout *shall* be located exceeding 20 feet (1,524 mm) from an access door, trap door, or crawl hole.

CHAPTER 7, PART II—BUILDING SEWERS

Part II Building Sewers. Delete all of Part II (Sections 713 through 723, and Tables 717.1 and 721.1).

WSR 17-10-075
PERMANENT RULES
BUILDING CODE COUNCIL

[Filed May 3, 2017, 11:18 a.m., effective June 3, 2017]

Effective Date of Rule: Thirty-one days after filing.

Purpose: **Makes changes to the state amendments to the 2015 International Mechanical Code, chapter 51-52 WAC, for clarity, along with some editorial changes.** Includes Section 102.4, Additions, alterations or repairs; Table 403.3.1.1, Required outdoor ventilation air; Section 403.8, Ventilation systems for Group R occupancies; Table 403.8.4.2, Prescriptive exhaust duct sizing; Section 608.5, Discharge piping; and Section 701.2.

Citation of Existing Rules Affected by this Order: Amending WAC 51-52-0102 and 51-52-0403.

Statutory Authority for Adoption: RCW 19.27.031.

Other Authority: RCW 19.27.074.

Adopted under notice filed as WSR 17-04-088 on January 31, 2017.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 2, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: April 21, 2017.

Steve K. Simpson
Council Chair

AMENDATORY SECTION (Amending WSR 16-01-148, filed 12/21/15, effective 7/1/16)

WAC 51-52-0102 Section 102—Applicability.

~~((102.4 Additions, alterations or repairs. Additions, alterations, renovations or repairs to a mechanical system shall conform to that required for a new mechanical system without requiring the existing mechanical system to comply with all of the requirements of this code. Additions, alterations or repairs shall not cause an existing mechanical system to become unsafe, hazardous or overloaded.~~

~~Minor additions, alterations, renovations and repairs to existing mechanical systems shall meet the provisions for new construction, unless such work is done in the same manner and arrangement as was in the existing system, is not hazardous and is approved.)) **Reserved.**~~

AMENDATORY SECTION (Amending WSR 16-01-148, filed 12/21/15, effective 7/1/16)

WAC 51-52-0403 Section 403—Mechanical ventilation.

403.1 Ventilation system. Mechanical ventilation shall be provided by a method of supply air and return or exhaust air. The amount of supply air shall be approximately equal to the amount of return and exhaust air. The system shall not be prohibited from producing negative or positive pressure. The system to convey ventilation air shall be designed and installed in accordance with Chapter 6.

403.2 Outdoor air required. The minimum *outdoor airflow rate* shall be determined in accordance with Section 403.3.

- EXCEPTIONS:
1. Where the registered design professional demonstrates that an engineered ventilation system design will prevent the maximum concentration of contaminants from exceeding that obtainable by the rate of *outdoor air* ventilation determined in accordance with Section 403.3, the minimum required rate of *outdoor air* shall be reduced in accordance with such engineered system design.
 2. Alternate systems designed in accordance with ASHRAE Standard 62.1 Section 6.2, Ventilation Rate Procedure, shall be permitted.

403.2.1 Recirculation of air. The air required by Section 403.3 shall not be recirculated. Air in excess of that required by Section 403.3 shall not be prohibited from being recircu-

lated as a component of supply air to building spaces, except that:

1. Ventilation air shall not be recirculated from one dwelling to another or to dissimilar occupancies.
2. Supply air to a swimming pool and associated deck areas shall not be recirculated unless such air is dehumidified to maintain the relative humidity of the area at 60 percent or less. Air from this area shall not be recirculated to other spaces where 10 percent or more of the resulting supply air-stream consists of air recirculated from these spaces.
3. Where mechanical exhaust is required by Note b in Table 403.3.1.1, recirculation of air from such spaces shall be prohibited. All air supplied to such spaces shall be exhausted, including any air in excess of that required by Table 403.3.1.1.

(Item 4 is not adopted.)

403.3 Outdoor air and local exhaust airflow rates. Group R-2, R-3 and R-4 occupancies three stories and less in height above grade plane shall be provided with outdoor air and local exhaust in accordance with Section 403.8. All other buildings intended to be occupied shall be provided with outdoor air and local exhaust in accordance with Section 403.3.1.

403.3.1.1 Outdoor airflow rate. Ventilation systems shall be designed to have the capacity to supply the minimum outdoor airflow rate determined in accordance with this section. In

each occupiable space, the ventilation system shall be designed to deliver the required rate of outdoor airflow to the breathing zone. The occupant load utilized for design of the ventilation system shall not be less than the number determined from the estimated maximum occupant load rate indicated in Table 403.3.1.1. Ventilation rates for occupancies not represented in Table 403.3.1.1 shall be those for a listed occupancy classification that is most similar in terms of occupant density, activities and building construction; or shall be determined by an approved engineering analysis. The ventilation system shall be designed to supply the required rate of ventilation air continuously during the period the building is occupied, except as otherwise stated in other provisions of the code.

With the exception of smoking lounges, the ventilation rates in Table 403.3.1.1 are based on the absence of smoking in occupiable spaces. Where smoking is anticipated in a space other than a smoking lounge, the ventilation system serving the space shall be designed to provide ventilation over and above that required by Table 403.3.1.1 in accordance with accepted engineering practice.

EXCEPTION: Where occupancy density is known and documented in the plans, the outside air rate may be based on the design occupant density. Under no circumstance shall the occupancies used result in outside air less than one-half that resulting from application of Table 403.3.1.1 estimated maximum occupancy rates.

**Table 403.3.1.1
REQUIRED OUTDOOR VENTILATION AIR**

Occupancy Classification	Occupant Density #/1000 ft ^{2a}	People Outdoor Airflow Rate in Breathing Zone R _p cfm/Person	Area Outdoor Airflow Rate in Breathing Zone R _a cfm/ft ^{2a}	Exhaust Airflow Rate cfm/ft ^{2a}
Offices				
Conference rooms	50	5	0.06	—
Kitchenettes ^k	—	—	—	0.30
Office spaces	5	5	0.06	—
Reception areas	30	5	0.06	—
Telephone/data entry	60	5	0.06	—
Main entry lobbies	10	5	0.06	—
Private dwellings, single and multiple				
Garages, common for multiple units ^b	—	—	—	0.75
Kitchens ^b	—	—	—	25/100 ^f
Living areas ^c	Based on the number of bedrooms. First bedroom, 2; each additional bedroom, 1	See Tables 403.8.1 and 403.8.5.1	—	—
Toilet rooms, bathrooms and laundry areas ^{g, i}	—	—	—	20/50 ^f
Public spaces				
Corridors serving other than Group R occupancies	—	—	0.06	—
Corridors serving Group R dwelling or sleeping units with whole house exhaust system	—	—	0.12	—
Corridors serving Group R dwelling or sleeping units with other than whole house exhaust system	—	—	0.06	—
Courtrooms	70	5	0.06	—

Occupancy Classification	Occupant Density #/1000 ft ^{2a}	People Outdoor Airflow Rate in Breathing Zone R _p cfm/Person	Area Outdoor Airflow Rate in Breathing Zone R _a cfm/ft ^{2a}	Exhaust Airflow Rate cfm/ft ^{2a}
Elevator car	—	—	—	1
Elevator lobbies in parking garage	—	—	1.0	—
Legislative chambers	50	5	0.06	—
Libraries	10	5	0.12	—
Museums (children's)	40	7.5	0.12	—
Museums/galleries	40	7.5	0.06	—
Places of religious worship	120	5	0.06	—
Shower room (per showerhead) ^{g, k}	—	—	—	((—)) 50/20 ^f
Smoking lounges ^b	70	60	—	—
Toilet rooms—Public ^{g, k}	—	—	—	((50/20 ^f)) 50/70 ^e
Sports and amusement				
Disco/dance floors	100	20	0.06	—
Bowling alleys (seating areas)	40	10	0.12	—
Game arcades	20	7.5	0.18	—
Ice arenas, without combustion engines ^j	—	—	0.30	0.5
Gym, stadium, arena (play area) ^j	—	—	0.30	—
Spectator areas	150	7.5	0.06	—
Swimming pools (pool and deck area)	—	—	0.48	—
Health club/aerobics room	40	20	0.06	—
Health club/weight room	10	20	0.06	—
Storage				
Janitor closets, trash rooms, recycling rooms	—	—	—	1.0
Repair garages, enclosed parking garage ^{b, d}	—	—	—	0.75
Storage rooms, chemical	—	—	—	1.5
Warehouses	—	—	0.06	—
Workrooms				
Bank vaults/safe deposit	5	5	0.06	—
Darkrooms	—	—	—	1.0
Copy, printing rooms	4	5	0.06	0.5
Freezer and refrigerated spaces (<50°F)	0	10	0	0
Meat processing ^c	10	15	—	—
Pharmacy (prep. area)	10	5	0.18	—
Photo studios	10	5	0.12	—
Computer (without printing)	4	5	0.06	—

For SI: 1 cubic foot per minute = 0.0004719 m³/s, 1 ton = 908 kg, 1 cubic foot per minutes per square foot = 0.00508 m³/(s•m²), °C = [(°F) -32]/1.8, 1 square foot = 0.0929 m².

- a. Based upon *net occupiable floor area*.
- b. Mechanical exhaust required and the recirculation of air from such spaces is prohibited. Recirculation of air that is contained completely within such spaces shall not be prohibited (see Section 403.2.1, Item 3).
- c. Spaces unheated or maintained below 50°F are not covered by these requirements unless the occupancy is continuous.
- d. Ventilation systems in enclosed parking garages shall comply with Section 404.

- e. Rates are per water closet or urinal. The higher rate shall be provided where the exhaust system is designed to operate intermittently. The lower rate shall be permitted only where the exhaust system is designed to operate continuously while occupied.
- f. Rates are per room unless otherwise indicated. The higher rate shall be provided where the exhaust system is designed to operate intermittently. The lower rate shall be permitted only where the exhaust system is designed to operate continuously while occupied.
- g. Mechanical exhaust is required and recirculation is prohibited.

- h. For nail salons, each manicure and pedicure station shall be provided with a *source capture system* capable of exhausting not less than 50 cfm per station. Exhaust inlets shall be located in accordance with Section 502.20. Where one or more required source capture systems operate continuously during occupancy, the exhaust rate from such systems shall be permitted to be applied to the exhaust flow rate required by Table 403.3.1.1 for the nail salon.
- i. A laundry area within a kitchen or bathroom is not required to have local exhaust. For the laundry area to qualify as being within the kitchen, the laundry room door must open directly into the kitchen and not into an adjacent corridor. Where there are doors that separate the laundry area from the kitchen or bathroom the door shall be louvered.
- j. When combustion equipment is intended to be used on the playing surface, additional dilution ventilation and/or source control shall be provided.
- k. Kitchenettes require exhaust when they contain a domestic cooking appliance range or oven that is installed in accordance with Table 507.2.2. Kitchenettes that only contain a microwave oven are not required to have mechanical exhaust. A kitchenette may not contain commercial cooking appliances that require Type I or Type II exhaust as these occupancies are required to be exhausted to the kitchen category in Table ((403.1.1)) 403.3.1.1.

403.3.2 Group R-2, R-3 and R-4 occupancies. This section is not adopted. See Section 403.8.

403.3.2.1 Outdoor air for dwelling units. This section is not adopted.

403.3.2.2 Outdoor air for other spaces. This section is not adopted.

403.3.2.3 Local exhaust. This section is not adopted.

403.8 Ventilation systems for Group R occupancies. Each dwelling unit or sleeping unit shall be equipped with local exhaust and whole house ventilation systems and shall comply with Sections 403.8.1 through 403.8.11. All occupied spaces, including public corridors, other than the Group R dwelling and sleeping unit, that support the Group R occupancy shall meet the ventilation requirements of Section 402 or ((Sections 403.1 to 403.7)) the applicable rates from Table 403.3.1.1.

403.8.1 Minimum ventilation performance. Ventilation systems shall be designed and installed to satisfy the ventilation requirements of Table 403.3.1.1 or Table 403.8.1. Breathing zone ventilation rates from Table 403.3.1.1 shall be calculated per Section 403.3.1.1 and corrected per zone air distribution effectiveness requirements per Section 403.3.1.2.

Table 403.8.1
VENTILATION RATES FOR ALL GROUP R PRIVATE DWELLINGS, SINGLE AND MULTIPLE
(CONTINUOUSLY OPERATING SYSTEMS)

Floor Area (ft ²)	Bedrooms ¹				
	0-1	2-3	4-5	6-7	>5
<500	30	40	45	55	60
500 - 1000	45	55	60	70	75
1001 - 1500	60	70	75	85	90
1501 - 2000	75	85	90	100	105
2001 - 2500	90	100	105	115	120
2501 - 3000	105	115	120	130	135
3001 - 3500	120	130	135	145	150
>3500	135	145	150	160	165

¹Ventilation rates in table are minimum outdoor airflow rates measured in cfm.

403.8.2 Control and operation.

1. Location of controls. Controls for all ventilation systems shall be readily accessible by the occupant.
2. Instructions. Operating instructions for whole house ventilation systems shall be provided to the occupant by the installer of the system.
3. Local exhaust ventilation systems. Local exhaust ventilation systems shall be controlled by manual switches, dehumidistats, timers, or other approved means.
4. Continuous whole house ventilation systems. Continuous whole house ventilation systems shall operate continuously and be equipped with an override control. A "fan on" switch shall be permitted as an override control. Controls shall be capable of operating the ventilation system without energizing other energy-consuming appliances. A clearly visible label shall be affixed to the controls that reads "Whole House Ventilation (see operating instructions)."

5. Intermittent whole house ventilation systems. Intermittent whole house ventilation systems shall comply with the following:

- 5.1 They shall be capable of operating intermittently and continuously.
- 5.2 They shall have controls capable of operating the exhaust fans, forced-air system fans, or supply fans without energizing other energy-consuming appliances.
- 5.3 The ventilation rate shall be adjusted according to the exception in Section 403.8.5.1.
- 5.4 The system shall be designed so that it can operate automatically based on the type of control timer installed.
- 5.5 The intermittent mechanical ventilation system shall operate at least one hour out of every four.
- 5.6 The system shall have a manual control and automatic control, such as a 24-hour clock timer.

5.7 At the time of final inspection, the automatic control shall be set to operate the whole house fan according to the schedule used to calculate the whole house fan sizing.

5.8 A label shall be affixed to the control that reads "Whole House Ventilation (see operating instructions)."

EXCEPTION: Engineered central ventilation systems serving dwelling units or sleeping units are not required to have individual controls for each dwelling unit or sleeping unit when designed for continuous operation and approved by the code official.

403.8.3 Outdoor air intake locations. *Outdoor air* intakes shall be classified as either operable openings or mechanical air intakes and shall be located per the following criteria. The intake locations for operable openings and mechanical air intakes shall comply with the following:

1. Openings for mechanical air intakes shall comply with Section 401.4. Operable openings shall comply with Section 401.4 items 2 and 4 only.

2. Intake openings shall not be located closer than 10 feet from an appliance vent outlet unless such vent outlet is 3 feet above the *outdoor air* inlet. The vent shall be permitted to be closer if specifically allowed by Chapter 8 or by the International Fuel Gas Code.

3. Intake openings shall be located where they will not pick up objectionable odors, fumes, or flammable vapors.

4. Intake openings shall be located where they will not take air from a hazardous or unsanitary location.

5. Intake openings shall be located where they will not take air from a room or space having a fuel-burning appliances.

6. Intake openings shall not be located closer than 10 feet from a vent opening of a plumbing drainage system unless the vent opening is at least 3 feet above the air inlet.

7. Intake openings shall not be located where they will take air from an attic, crawl space, or garage.

8. Intake openings shall not be located on asphalt roofs unless it is shown that no other location is permissible. In such cases, the inlet opening shall be located a minimum of 2 feet from the nearest surface of the asphalt roofing, measured from the intake opening.

403.8.4 Local exhaust ventilation requirements. Local exhaust ventilation systems shall exhaust at least the volume of air required for exhaust in Table 403.3.1.1. Exhaust shall be provided in each kitchen, bathroom, water closet, laundry area, indoor swimming pool, spa, and other room where water vapor or cooking odor is produced.

403.8.4.1 Local exhaust systems. Exhaust systems shall be designed and installed to meet all of the criteria below:

1. Local exhaust shall be discharged outdoors.
2. Exhaust outlets shall comply with Section 501.3.
3. Pressure equalization shall comply with Section 501.4.
4. Exhaust ducts in systems which are designed to operate intermittently shall be equipped with back-draft dampers.
5. All exhaust ducts in unconditioned spaces shall be insulated to a minimum of R-4.
6. Terminal outlet elements shall have at least the equivalent net free area of the ductwork.
7. Terminal outlet elements shall be screened or otherwise protected as required by Section 501.3.2.
8. Exhaust fans in separate dwelling units or sleeping units shall not share common exhaust ducts unless the system is engineered for this operation.

9. Where permitted by Chapter 5, multiple local exhaust ducts may be combined. If more than one of the exhaust fans in a dwelling unit or sleeping unit shares a common exhaust duct then each exhaust fan shall be equipped with a back-draft damper to prevent the recirculation of exhaust air from one room to another room via the exhaust ducting system.

403.8.4.2 Local exhaust fans. Exhaust fan construction and sizing shall meet the following criteria.

1. Exhaust fans shall be tested and rated in accordance with the airflow and sound rating procedures of the Home Ventilating Institute (HVI 915, HVI Loudness Testing and Rating Procedure, HVI 916, HVI Airflow Test Procedure, and HVI 920, HVI Product Performance Certification Procedure).

EXCEPTION: Where a range hood or down draft exhaust fan is used for local exhaust for a kitchen, the device is not required to be rated per these standards.

2. Installation of the system or equipment shall be carried out in accordance with manufacturers' installation instructions.

3. Fan airflow rating and duct system shall be designed and installed to deliver at least the exhaust airflow required by Table 403.3.1.1. The airflows required refer to the delivered airflow of the system as installed and tested using a flow hood, flow grid, or other airflow measurement device.

- EXCEPTIONS:
1. An exhaust airflow rating at a pressure of 0.25 in. w.g. may be used, provided the duct sizing meets the prescriptive requirements of Table 403.8.4.2.
 2. Where a range hood or down draft exhaust fan is used to satisfy the local exhaust requirements for kitchens, the range hood or down draft exhaust shall not be less than 100 cfm at 0.10 in. w.g.

TABLE 403.8.4.2
PRESCRIPTIVE EXHAUST DUCT SIZING

Fan Tested cfm at 0.25 inches w.g.	Minimum Flex Diameter	Maximum Length in Feet	Minimum Smooth Diameter	Maximum Length in Feet	Maximum Elbows ^(†) a
50	4 inches	25	4 inches	70	3
50	5 inches	90	5 inches	100	3
50	6 inches	No Limit	6 inches	No Limit	3
80	4 inches ⁽²⁾ b	NA	4 inches	20	3
80	5 inches	15	5 inches	100	3

Fan Tested cfm at 0.25 inches w.g.	Minimum Flex Diameter	Maximum Length in Feet	Minimum Smooth Diameter	Maximum Length in Feet	Maximum Elbows ⁽⁺⁾ a
80	6 inches	90	6 inches	No Limit	3
100	5 inches ⁽²⁾ b	NA	5 inches	50	3
100	6 inches	45	6 inches	No Limit	3
125	6 inches	15	6 inches	No Limit	3
125	7 inches	70	7 inches	No Limit	3

- (+)- a. For each additional elbow, subtract 10 feet from length.
- (2)- b. Flex ducts of this diameter are not permitted with fans of this size.

403.8.5 Whole house ventilation requirements. Each dwelling unit or sleeping unit shall be equipped with one of the following four types of mechanical whole house ventilation systems: A system using exhaust fans (see Section 403.8.6); a system integrated with forced-air systems (see Section 403.8.7); a system using supply fans (see Section 403.8.8); or a heat or energy recovery ventilation system (see Section 403.8.9). The whole house exhaust system is permitted to be one of the local exhaust systems required by Section 403.8.4 as long as the requirements of this section, in addition to the requirements of Section 403.8.5, are met.

EXCEPTION: Additions, alterations, renovations or repairs to a mechanical system that is part of a building addition with less than 500 square feet of conditioned floor area are exempt from the requirements for whole house ventilation systems, Section 403.8.5.

403.8.5.1 Outdoor air. *Outdoor air* shall be distributed to each habitable space.

Where *outdoor air* supply intakes are separated from exhaust vents by doors, means shall be provided to ensure airflow to all separated habitable spaces by installing distribution ducts, installed grilles, transoms, doors undercut to a minimum of 1/2-inch above the surface of the finish floor covering, or other similar means where permitted by the *International Building Code*.

The mechanical system shall operate continuously to supply at least the volume of *outdoor air* required in Table 403.3.1.1 or Table 403.8.1.

EXCEPTION: Intermittently operating ventilation systems: The whole house mechanical ventilation system is permitted to operate intermittently where the system has controls that enable operation for not less than 25 percent of each 4-hour segment and the ventilation rate prescribed in Table 403.3.1.1 or Table 403.8.1 is multiplied by the factor determined in accordance with Table 403.8.5.1.

TABLE 403.8.5.1
INTERMITTENT WHOLE HOUSE MECHANICAL VENTILATION RATE FACTORS^{a, b}

RUN-TIME PERCENTAGE IN EACH 4-HOUR SEGMENT	25%	33%	50%	66%	75%	100%
Factor ^a	4	3	2	1.5	1.3	1.0

- ^a For ventilation system run-time values between those given, the factors are permitted to be determined by interpolation.
- ^b Extrapolation beyond the table is prohibited.

403.8.5.2 Whole house supply system general requirements. Whole house ventilation systems integrated with a forced-air system, systems using supply fans and systems using a heat or energy recovery ventilation system shall comply with the following.

1. *Outdoor air* louvers shall be adequately sized for the required airflow and shall comply with Section 401.5. *Outdoor air* intake locations shall comply with mechanical air intakes requirements of Section 403.8.3.
2. *Outdoor air* ducts for dedicated or central supply systems and exhaust ducts for heat or energy recovery systems shall be provided with a means for balancing the system to the required airflow via balance dampers or other devices.
3. *Outdoor air* ducts for dedicated or central systems shall be provided with motorized dampers.

EXCEPTIONS:

1. *Outdoor air* ducts at heat or energy recovery ventilation systems are not required to have motorized dampers.
2. *Outdoor air* ducts at continuous ventilation systems are not required to have motorized dampers.

4. *Outdoor air* ducts in the conditioned space shall be insulated to a minimum of R-4. In heat or energy recovery

ventilation systems, ducts upstream of the heat exchanger shall also be insulated to at least R-4.

5. All *outdoor air* ducts shall be designed and installed to deliver at least the outdoor airflow required by Section 403.8.5.1. The airflows required refer to the delivered airflow of the system as installed and tested using a flow hood, flow grid, or other airflow measurement device.

EXCEPTION: The *outdoor air* duct for supply fan systems and heat or energy recovery systems may be prescriptively sized per Table 403.8.5.2 for dedicated *outdoor air* ducts upstream of the supply fan. Supply fans shall have the capacity to provide the amount of *outdoor air* required by Section 403.8.5.1 at 0.40 in. w.g. as per HVI 916 (April 1995). When prescriptively sized the system shall be tested and balanced using a flow hood, flow-grid, or other airflow measurement device.

6. Whole house ventilation controls for intermittent operation shall allow concurrent operation of the forced-air fan and the associated outdoor air motorized damper.

7. Whole house ventilation controls for continuous operation shall be provided at the forced-air fan.

EXCEPTION: Engineered central ventilation systems serving dwelling units or sleeping units are not required to have individual controls for each dwelling or sleeping unit when designed for continuous operation and approved by the code official.

**TABLE 403.8.5.2
PRESCRIPTIVE SUPPLY FAN DUCT SIZING**

Supply Fan Tested cfm at 0.40" w.g.		
Specified Volume from Table 408.1	Minimum Smooth Duct Diameter	Minimum Flexible Duct Diameter
50 - 90 cfm	4 inch	5 inch
90 - 150 cfm	5 inch	6 inch
150 - 250 cfm	6 inch	7 inch
250 - 400 cfm	7 inch	8 inch

403.8.6 Whole house ventilation with exhaust fan systems. This section establishes minimum requirements for mechanical whole house ventilation systems using exhaust fans.

403.8.6.1 Outdoor air. Exhaust fan only ventilation systems shall provide *outdoor air* to each occupiable space through one of the following methods:

1. *Outdoor air* may be drawn through air inlets installed in exterior walls or windows. The air inlets shall comply with all of the following:

1.1. Inlets shall have controllable, secure openings and shall be designed to not compromise the thermal properties of the building envelope.

1.2. Inlets shall be accessible to occupants, including compliance with Section 1109.13 of the *International Building Code* for designated accessible units, Type A units and Type B units.

1.3. Inlets shall be screened or otherwise protected from entry by insects, leaves, or other material.

1.4. Inlets shall provide not less than 4 square inches of net free area of opening for each 10 cfm of *outdoor air* required in Table 403.3.1.1 or Table 403.8.1.

1.5. Any inlet or combination of inlets which provide 10 cfm at 10 Pascals as determined by the Home Ventilation Institute Air Flow Test Standard (HVI 901 (November 1996)) are deemed equivalent to 4 square inches of net free area.

1.6. Each occupiable space shall have a minimum of one air inlet that has a minimum of 4 square inches of net free area.

2. *Outdoor air* may be drawn in through operable openings to the outdoors. Each habitable space shall be provided with operable openings with an openable area of not less than 4 square inches of net free area of opening for each 10 cfm of outdoor air required by Table 403.3.1.1 or Table 403.8.1. Doors exiting to a corridor, court or public way shall not be used to provide *outdoor air*. The operable openings shall comply with the following:

2.1. Openings shall be controllable, securable, and shall be designed to not compromise the thermal properties of the building envelope.

2.2. Openings shall be accessible to occupants, including compliance with Section 1109.13 of the *International Building Code* for designated accessible units, Type A units and Type B units.

2.3 Openings shall be screened or otherwise protected from entry by leaves or other material.

3. For interior adjoining spaces without *outdoor air* openings, one of the following two options shall be used to ventilate the interior adjoining space:

3.1. Provide a whole house transfer fan at the interior adjoining space sized to provide a minimum of the ventilation rate required per Section 403.8.5.1. The transfer fan shall circulate air between the interior room or space and the adjacent habitable space. The transfer fan may operate continuously or intermittently using controls per Section 403.8.2.

3.2. Provide a permanent opening to the interior adjoining space. Opening shall be unobstructed and shall have an area of not less than 8 percent of the floor area of the interior adjoining space, but not less than 25 square feet.

403.8.6.2 Outside air intake locations. All *outside air* intake opening types described in Section 403.8.6.1 shall be classified operable openings and shall not be classified as mechanical air intakes. The intake locations shall comply with Section 403.8.3.

403.8.6.3 Whole house exhaust system. Whole house exhaust system shall be designed and installed to meet all of the applicable criteria below:

1. Whole house ventilation exhaust shall be discharged outdoors.

2. Exhaust outlets shall comply with Section 501.2.

3. Exhaust ducts in systems which are designed to operate intermittently shall be equipped with back-draft dampers.

4. All exhaust ducts in unconditioned spaces shall be insulated to a minimum of R-4.5. Terminal outlet elements shall have at least the equivalent net free area of the ductwork.

5. Terminal outlet elements shall be screened or otherwise protected as required by Section 501.2.2.

6. One of the required local exhaust fans for the laundry room or bathroom may be designated as the whole house exhaust fan.

7. Exhaust fans in separate dwelling units or sleeping units shall not share common exhaust ducts unless the system is engineered for this operation.

8. Where permitted by Chapter 5 whole house exhaust ducts may be combined with other local exhaust ducts. If more than one of the exhaust fans in a dwelling unit or sleeping unit shares a common exhaust duct then each exhaust fan shall be equipped with a back-draft damper to prevent the recirculation of exhaust air from one room to another room via the exhaust ducting system.

403.8.6.4 Whole house exhaust and transfer fans. Exhaust fan construction and sizing shall meet the following criteria.

1. Exhaust and transfer fans shall be tested and rated in accordance with the airflow and sound rating procedures of the Home Ventilating Institute (HVI 915, HVI Loudness Testing and Rating Procedure, HVI 916, HVI Airflow Test Procedure, and HVI 920, HVI Product Performance Certification Procedure).

2. Installation of system or equipment shall be carried out in accordance with manufacturers' design requirements and installation instructions.

3. Fan airflow rating and duct system shall be designed and installed to deliver at least the outdoor airflow required by Table 403.3.1.1 or Table 403.8.1. The airflows required refer to the delivered airflow of the system as installed and tested using a flow hood, flow grid, or other airflow measurement device.

EXCEPTION: An airflow rating at a pressure of 0.25 in. w.g. may be used, provided the duct sizing meets the prescriptive requirements of Table 403.8.5.2.

403.8.6.5 Fan noise. Whole house exhaust and transfer fans located 4 feet or less from the interior grille shall have a sound rating of 1.0 or less measured at 0.10 inches water gauge. Manufacturer's noise ratings shall be determined as per HVI 915. Remotely mounted fans shall be acoustically isolated from the structural elements of the building and from attached ductwork using insulated flexible duct or other approved material.

403.8.7 Whole house ventilation integrated with forced-air systems. This section establishes minimum requirements for mechanical whole house ventilation systems using forced-air system fans.

403.8.7.1 Outdoor air. Forced-air system fan ventilation systems shall provide *outdoor air* through one of the following methods:

1. A dedicated *outdoor air* louver and *outdoor air* duct for each dwelling unit or sleeping unit shall supply *outdoor air* to the return side of the forced-air system fan; or

2. A central *outdoor air* delivery system that supplies multiple dwelling units or sleeping units shall supply *outdoor air* to the return side of the forced air system fan.

3. For interior adjoining spaces without *outdoor air* openings, one of the following two options shall be used to ventilate the interior adjoining space:

3.1. Provide a whole house transfer fan at the interior adjoining space sized to provide a minimum of the ventilation rate required per Section 403.8.5.1. The transfer fan shall circulate air between the interior room or space and the adjacent habitable space. The transfer fan may operate continuously or intermittently using controls per Section 403.8.2.

3.2. Provide a permanent opening to the interior adjoining space. Opening shall be unobstructed and shall have an area of not less than 8 percent of the floor area of the interior adjoining space, but not less than 25 square feet.

403.8.7.2 Whole house forced-air system. Where *outdoor air* is provided to each habitable dwelling unit or sleeping unit by a forced-air system, the *outdoor air* duct shall be connected to the return air stream at a point within 4 feet upstream of the forced-air unit. It shall not be connected directly to the forced-air unit cabinet in order to prevent thermal shock to the heat exchanger. At a minimum, filtration of the *outdoor air* shall be provided at the forced-air unit. The filter shall be accessible for regular maintenance and replacement. The filter shall have a Minimum Efficiency Rating Value (MERV) of at least 6.

Each habitable space in the dwelling or sleeping unit shall be served by a forced-air system with outdoor air connection.

403.8.8 Whole house ventilation with supply fan systems. This section establishes minimum requirements for mechanical whole house ventilation systems using supply fan systems.

403.8.8.1 Outdoor air. Supply fan ventilation systems shall provide *outdoor air* through one of the following methods:

1. A dedicated *outdoor air* louver and *outdoor air* duct for each dwelling unit or sleeping unit shall supply *outdoor air* to a supply fan; or

2. A central *outdoor air* supply fan system shall distribute unconditioned or conditioned air to multiple dwelling units or sleeping units.

3. For interior adjoining spaces without *outdoor air* openings, one of the following two options shall be used to ventilate the interior adjoining space:

3.1. Provide a whole house transfer fan at the interior adjoining space sized to provide a minimum of the ventilation rate required per Section 403.8.5.1. The transfer fan shall circulate air between the interior room or space and the adjacent habitable space. The transfer fan may operate continuously or intermittently using controls per Section 403.8.2.

3.2. Provide a permanent opening to the interior adjoining space. Opening shall be unobstructed and shall have an area of not less than 8 percent of the floor area of the interior adjoining space, but not less than 25 square feet.

403.8.8.2 Whole house supply system. Where *outdoor air* is provided to each habitable dwelling unit or sleeping unit by supply fan systems the *outdoor air* shall be filtered.

The system filter may be located at the intake device or inline with the fan. The filter shall be accessible for regular maintenance and replacement. The filter shall have a Minimum Efficiency Rating Value (MERV) of at least 6.

403.8.9 Whole house ventilation with heat recovery or energy recovery ventilation systems. This section establishes minimum requirements for mechanical whole house ventilation systems using heat recovery or energy recovery ventilation systems.

403.8.9.1 Outdoor air. Heat recovery or energy recovery ventilation systems shall provide *outdoor air* through one of the following methods:

1. A dedicated *outdoor air* louver and *outdoor air* duct for each dwelling unit or sleeping unit shall supply *outdoor air* to the heat recovery or energy recovery ventilator; or

2. A central *outdoor air* heat recovery or energy recovery unit shall distribute conditioned air to multiple dwelling units or sleeping units.

3. For interior adjoining spaces without *outdoor air* openings, one of the following two options shall be used to ventilate the interior adjoining space:

3.1. Provide a whole house transfer fan at the interior adjoining space sized to provide a minimum of the ventilation rate required per Section 403.8.5.1. The transfer fan shall circulate air between the interior room or space and the adjacent habitable space. The transfer fan may operate continuously or intermittently using controls per Section 403.8.2.

3.2. Provide a permanent opening to the interior adjoining space. Opening shall be unobstructed and shall have an

area of not less than 8 percent of the floor area of the interior adjoining space, but not less than 25 square feet.

403.8.9.2 Whole house heat recovery ventilator system.

Where *outdoor air* is provided to each habitable dwelling unit or sleeping unit by heat recovery or energy recovery ventilator the *outdoor air* shall be filtered. The filter shall be located on the upstream side of the heat exchanger in both the intake and exhaust airstreams with a Minimum Efficiency Rating Value (MERV) of at least 6. The system filter may be located at the intake device or inline with the fan. The filter shall be accessible for regular maintenance and replacement.

Each habitable space in the dwelling or sleeping unit shall be served by a heat recovery ventilator with outdoor air connection.

403.8.10 Local exhaust ventilation and whole house ventilation alternate performance or design requirements.

In lieu of complying with Sections 403.8.4 or 403.8.5 compliance with the section shall be demonstrated through engineering calculations by an engineer licensed to practice in the state of Washington or by performance testing. Documentation of calculations or performance test results shall be submitted to and approved by the building official. Performance testing shall be conducted in accordance with approved test methods.

403.8.11 Alternate systems. When approved by the code official, systems designed in accordance with ASHRAE Standard 62.2 shall be permitted.

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 16, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: April 14, 2017.

Brad Smith, Chair
Fish and Wildlife Commission

Reviser's note: The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 17-11 issue of the Register.

**WSR 17-10-076
PERMANENT RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 17-10—Filed May 3, 2017, 11:25 a.m., effective June 3, 2017]

Effective Date of Rule: Thirty-one days after filing.

Purpose: See Reviser's note below.

Citation of Existing Rules Affected by this Order:
Amending WAC 232-12-021, 232-28-248, 232-28-273, 232-28-283, 232-28-291, 232-28-296, 232-28-299, 232-28-337, 232-28-342, 232-28-357, 232-28-358, 232-28-359, 232-28-360, 232-28-436, 232-28-622, and 232-28-624.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, 77.04.055, 77.12.047, 77.12.150, 77.12.240, 77.12.800, 77.32.090.

Adopted under notice filed as WSR 17-04-103 on February 1, 2017.

Changes Other than Editing from Proposed to Adopted Version: See Reviser's note below.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.